

IN THE UNITED STATES DISTRICT COURT
FOR EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

GAIL HARNESS,

Plaintiff,

vs.

Case No. 3:18-CV-00100

Case No. 3:19-CV-340

Jury Demand

WILLIAM T. JONES, individually
and in his official capacity;
and ANDERSON COUNTY, TENNESSEE,

Defendants.

JURY TRIAL

Amended Volume II

BE IT REMEMBERED that the above-captioned
cause came on for hearing, on this, the 22nd day of
June 2021, before the Honorable Senior Judge Curtis
L. Collier, when and where the following proceedings
were had, to wit:

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THE COURT: I understand that counsel had some matters they felt like would be beneficial to discuss with the Court.

MR. COLLINS: Yes, Your Honor. We have just a few things first. First, the plaintiff intends to withdraw or dismiss her retaliatory discharge claim. We believe that that will help streamline things as we go forward.

One other thing that we wanted to mention was that we'd like the Court to give the instruction to the jury that, if you see lawyers in the hallway, don't think they're being mean. They're not. They just can't communicate with you. Because on the way out of here, we were in close quarters with some of the jurors and I thought that -- we obviously walked away and didn't say anything to them. So I'd like them to know that we're not disagreeable people.

One of the exhibits that has been submitted -- Exhibit Number 33 that was submitted, has, inadvertently, some messages that were -- in fact, violate this Court's order on a Motion in Limine. I think Docket 56 is the docket entry. And those page numbers are 61 through 65. And so, we

1 are withdrawing those pages. And we will have that
2 correction made on our end, but we wanted to let the
3 courtroom deputy know, Mrs. Lewis know that those
4 pages don't need to be included.

5 The other preliminary matter is, there
6 is an attorney listed as counsel of record for
7 plaintiff, Darren Berg. We would ask the Court to
8 terminate his representation on the docket. He
9 should no longer be counsel of record. He has not
10 participated in this case since the filing of the
11 complaint, and we would like that noted on the
12 record and have him terminated as counsel of record.

13 Dr. Surdock is here today, who will be
14 testifying. She is a clinical psychologist and a
15 treating -- who treats Gail Harness. The defendant,
16 as I understand it, wishes to invoke the rule of
17 sequestration. And so, I'd like to take that up, if
18 the Court please.

19 As Your Honor knows, under Rule 615, the
20 Court has wide latitude and discretion to allow a
21 witness to remain in the courtroom. Rule 615
22 specifically says, Subpart (C): A person whose
23 presence is shown by a party to be essential to
24 present in a party's claim or defense.

25 As the Court is aware, experts often

1 fall in that category, not always. But here, we do
2 intend to ask Dr. Surdock some questions regarding
3 what she observes from Ms. Harness on the stand.
4 And we think that's a proper exercise of the court's
5 discretion, to allow Dr. Surdock to sit in for that
6 testimony. And as Your Honor is well aware, under
7 Rule 703, experts such as Dr. Surdock, can base
8 their opinions on things they learn at trial. Which
9 is specifically why the rules and decisional law
10 carve out this exception as to expert witnesses.

11 And the final thing that we have is,
12 Jones -- William Jones has filed a lawsuit against
13 Gail Harness, seeking his attorney's fees. It is
14 quite possibly one of the most frivolous lawsuits
15 I've ever seen in my life. It has absolutely no
16 merit and no legal basis whatsoever.

17 I would ask the Court -- my concern is
18 that they're going to bring this up today, this
19 other lawsuit, and I think it would be entirely
20 improper. And so, I would ask the Court to issue a
21 ruling to that effect.

22 Thank you.

23 THE COURT: Thank you.

24 Mr. Burchette, Mr. Knight.

25 MR. KNIGHT: With regard to --

1 THE COURT: Mr. Knight, do you have any
2 objection, then, to the Motion to Dismiss the
3 retaliatory discharge claim?

4 MR. KNIGHT: I mean, it's their lawsuit.
5 It's the second lawsuit. But I can't think of an
6 objection. I didn't know they were going to do that
7 until five minutes ago, so ...

8 I mean, if she doesn't want to bring it,
9 she doesn't want to bring it, I suspect. So, I
10 guess the answer is, "No."

11 THE COURT: And this would be with
12 prejudice or without prejudice?

13 MR. COLLINS: I think -- I mean, I would
14 like to say, "Without prejudice," Your Honor. But I
15 think, in effect, it's with prejudice, I just don't
16 know that we -- I mean, I think it would be with
17 prejudice.

18 THE COURT: Very well. The Court, then,
19 will grant that request. So the retaliatory
20 discharge claim is dismissed with prejudice.

21 You have any objection to the Court
22 instructing the jury that it is improper for counsel
23 and the parties to carry on any conversation with
24 the jurors or even interact with the jurors outside
25 of the courtroom?

1 MR. KNIGHT: No, Your Honor. I think
2 that's very appropriate.

3 THE COURT: So the Court will do that.
4 The request to have the expert witness
5 remain in the courtroom; do you have an objection to
6 that?

7 MR. KNIGHT: We would object to the
8 extent it conflicts with what your prior practice
9 is. I know some judges allow an expert to stay in,
10 or a treating physician to stay in, and some don't.
11 So, the objection is limited in that scope.

12 THE COURT: I don't know that I have any
13 prior practice. To the extent that I do, it's based
14 on the rules of evidence. In instances where the
15 experts remain in the courtroom, is because they're
16 going to base their testimony, in part, on what they
17 hear or observe in the courtroom.

18 For example, one expert is going to
19 opine on another expert's testimony. And,
20 obviously, that expert has to either get a
21 transcript and read the transcript while she's in
22 the courtroom, to read it.

23 I don't know the circumstances here.
24 I'm assuming that the expert has been, if not
25 treating, at least examining the plaintiff for quite

1 sometime. And the bulk of her opinion is going to
2 be based on the interaction with the plaintiff prior
3 to now, to the extent there might be something that
4 comes under the plaintiff's testimony that would
5 influence her opinion. It's hard to understand what
6 that would be. I guess it is possible, and to the
7 extent she already knows what the plaintiff's going
8 to testify to, and that probably has already been
9 added into her opinion.

10 And then, with the rules, as counsel
11 stated, the rule contemplates experts are going to
12 be allowed to remain in the courtroom, if they're
13 going to assist counsel or if their testimony's
14 going to be based on something that comes up during
15 the testimony.

16 MR. KNIGHT: You know, I don't see how
17 they didn't raise that. They said to observe
18 Ms. Harness because she's not been treated in two
19 years.

20 MS. BURCHETTE: 2018.

21 MR. KNIGHT: 2018. So, her opinions are
22 from observing Ms. Harness in private and in her
23 office, and that's where -- and she's been deposed.
24 And that's what is the basis of her opinions, not
25 what she sees today. And I don't know how she can

1 help counsel. They didn't even mentioned that they
2 needed her help.

3 MR. COLLINS: Well -- I'm sorry, Your
4 Honor. If I may.

5 It really -- the reason we want her in
6 the courtroom, I'll just -- it's no secret. The
7 diagnosis of post-traumatic stress disorder, there's
8 a wide spectrum of symptoms. There are -- we
9 anticipate Ms. Harness to testify to symptoms that,
10 perhaps Dr. Surdock has not seen or heard, because
11 there's such a full panel plate of things that
12 qualify as symptoms of post-traumatic stress.

13 And so, the intent would be to say,
14 "Dr. Surdock, you were here. You listened to
15 Ms. Harness' testimony. She testified to "X", "Y",
16 and "Z", having this response on, say, a cue, for
17 example, is that consistent with your diagnosis of
18 post-traumatic stress disorder? So, that would be
19 the purpose.

20 And then, yes, I mean, if she's
21 willing --

22 THE COURT: Well, why does she have to
23 be in the courtroom for that question? You can pose
24 hypothetical questions.

25 MR. COLLINS: Well, sure I can, but ...

1 THE COURT: I'm sure that that takes
2 into account, facts that have been presented in
3 court. So why should she have to be in the
4 courtroom for that?

5 MR. COLLINS: I think it would be good
6 for her to observe Ms. Harness' mannerisms and
7 actually hear and see the testimony. I really do.
8 But, of course --

9 THE COURT: Isn't that true for every
10 witness, though?

11 It wouldn't be better for every witness
12 so they can see and observe the testimony of
13 previous witnesses?

14 MR. COLLINS: Sure, but it would be
15 improper for me to elicit opinion testimony from a
16 lay testimony about observations that they made on
17 someone on the stand. Here, we have a clinical
18 psychologist.

19 THE COURT: It may not be opinion
20 evidence they'd be offering. It may be evidence
21 that refreshed her recollection. It may be things
22 that they have forgotten about. It may be that the
23 previous witness articulates the facts better than
24 they did. I mean, there are all kind of reasons why
25 you may want to observe somebody speaking before

1 you, other than to have them offer an opinion. But
2 we don't allow witnesses to observe other witnesses,
3 even though it might be helpful.

4 MR. COLLINS: But an expert may base his
5 or her opinions on observations made at trial. This
6 is not -- Dr. Surdock's not an engineer, she's a
7 clinical psychologist who performs psychotherapy on
8 this plaintiff. And I think that that is a proper
9 course for her to stay in here, listen to the
10 testimony so that I may ask her some questions on,
11 "What did you observe; is this consistent or
12 inconsistent with the diagnosis?"

13 But, again, it's the Court's discretion
14 under the rules. Very, very clear on the cite, at
15 least in my book, there's a Holder vs. U.S., 150 --
16 no, U.S. vs. Olofson 563 F.3d 652. This is a
17 Seventh Circuit case.

18 It says the Court, you know -- that Rule
19 703 allows this. Rule 615 allows it. A lot of
20 courts do, but, ultimately, it's the Court's
21 discretion. And we ask the Court to exercise its
22 discretion in favor of allowing her to remain in the
23 courtroom.

24 Thank you.

25 THE COURT: Counsel's brought to the

1 Court, the ruling. That's Rule 615. And 615
2 indicates that the Court must exclude witnesses.
3 But this rule does not authorize excluding a
4 person's presence that party shows to be central to
5 represent the party's claim or defense. And case
6 law under this rule has held that experts may fall
7 within the exemption, if the party wishing to fall
8 under the exemption, can demonstrate that the
9 expert's presence is central to the presentation of
10 the party's case.

11 And as counsel also indicated, one of
12 the prime examples is where an expert whose opinions
13 are based upon the testimony of other witnesses,
14 qualifies under this exemption.

15 And so, to this point, this knowledge or
16 advice is needed by counsel from the testimony of
17 other witnesses. And the party relying on this
18 exemption has the burden of establishing that the
19 witness is essential.

20 The example that the Court raised where
21 this comes up most frequently, is where one expert
22 is going to testify, based upon the testimony of
23 another expert, even to contradict the expert, or to
24 corroborate that expert's testimony. And since the
25 opinion is based strictly upon what happens in the

1 courtroom, then that expert can be allowed in.

2 Here, we have, as the Court understands,
3 a medical expert who has been treating the plaintiff
4 for quite sometime. And during the course of that
5 treatment, she's come to certain conclusions and
6 she's reached an opinion as to the witness'
7 symptoms -- the plaintiff's symptoms and the
8 prognosis.

9 Counsel would like to have the expert
10 remain in the courtroom to watch the plaintiff while
11 she testifies.

12 Sitting in a doctor's office, undergoing
13 an examination in the usual course of business, I
14 think is the way that psychiatrists and
15 psychologists generally conduct their business and
16 how they reach their decisions. I'm not aware of it
17 being standard practice for a psychologist or a
18 psychiatrist to watch a person on a witness stand,
19 which is an extremely stressful situation. It's a
20 high-stake situation. They're under oath. They're
21 also being watched by the public. Their testimony's
22 being recorded. And anyone in the world who wants
23 to get a copy of the transcript can read it. And
24 will be subject to cross-examination. That does not
25 seem, to the Court, to be an optimal way of

1 determining what this person is exhibiting on the
2 stand, is consistent or inconsistent with a medical
3 diagnosis.

4 So, the Court will not exempt the
5 witness from the restrictions of 615, and the
6 witness will be excluded.

7 MR. COLLINS: Just when we call --

8 THE COURT: And the other issue that we
9 had was, Jones has apparently filed a lawsuit.
10 There's some concern that Mr. Jones' lawsuit will
11 not be brought up somehow in the course of this
12 trial.

13 Mr. Knight.

14 MR. KNIGHT: We had no -- I had no
15 intent of doing that. You know -- the
16 characterization of a law -- if it's so frivolous,
17 it's still pending, and he has a lawyer. So, you
18 know, that's -- that is a little out there and it
19 hasn't been dismissed. So, could that be a source
20 of stress that affects her reputation, humiliation
21 and embarrassment, I think so. So, I mean --

22 THE COURT: Why don't we do this. You
23 indicated you don't have any intent of bringing it
24 up. If you change your mind, would you notify the
25 opposing side ahead of time before you mention it?

1 MR. KNIGHT: Sure.

2 THE COURT: Will that work?

3 MR. COLLINS: That works for me, Your
4 Honor. But the reason it hasn't been dismissed is
5 because I haven't gotten around to filing a motion
6 yet. That's the only reason.

7 THE COURT: Well, one of the wonderful
8 things about our country is, anybody can file a
9 lawsuit for any reason.

10 Let's bring the jury in.

11 THE CLERK: Is Mr. Berg dismissed --

12 MR. COLLINS: Yes, that was the other --
13 we would like to have Mr. Berg terminated.

14 THE COURT: Yes, the Court will grant
15 that motion. Mr. Berg is terminated.

16 (WHEREUPON, the following matters were
17 heard in open court in the presence of the jury, as
18 follows:)

19 THE COURT: Please be seated. I trust
20 everyone had a peaceful and relaxing night last
21 night. It looks like we're still on track to finish
22 the plaintiff's case today. And we hope to get to
23 defendant's case after that.

24 Is the plaintiff ready for their next
25 witness?

1 MR. STANLEY: Yes, Your Honor.

2 Plaintiff would call Russell Bearden to the stand.

3 MR. COLLINS: Your Honor, just a
4 reminder regarding the instruction we discussed in
5 preliminary.

6 THE COURT: Okay. Ladies and gentlemen
7 we are in a very old courthouse here. Our
8 courthouse is almost 100 years old and we don't have
9 an awful lot of ways to enter and leave the
10 courthouse. And oftentimes in the halls, you'll run
11 into the party or run into the lawyers.

12 It is improper for the lawyers to even
13 acknowledge you. They can not speak to you,
14 recognize you, and, generally, will try to avoid
15 making eye contact with you, because of the concern
16 that any type of interaction with you might
17 prejudice the case, it might lead to accusations of
18 improper influence upon you.

19 So, don't take that personally if you
20 see one of the lawyers or a party and they pass by
21 you without saying anything or they turn around and
22 walk away. It's not because they dislike you. It's
23 not because of any ill will or any ill feelings.
24 It's just because of the way the system works. We
25 want you to make your decision that's strictly upon

1 the evidence and the facts that's presented here in
2 the courtroom and the law that we give you, and not
3 because of an interaction that you may have had with
4 the one side or the other side.

5 Does that suffice?

6 MR. COLLINS: Yes, Your Honor. Thank
7 you very much.

8
9 (WHEREUPON, the witness was sworn in by
10 the Court Clerk.)

11
12 * * *

13 **RUSSELL BEARDEN,**

14 was called as a witness, and after having been duly
15 sworn, testified as follows:

16
17 DIRECT EXAMINATION

18 QUESTIONS BY MR. STANLEY:

19 Q. Mr. Bearden, if you could, just introduce
20 yourself to the jury and tell them where you live
21 at.

22 You can take your mask off.

23 A. Thank you.

24 My name is Russell Bearden and I live in
25 Lenoir City, Tennessee.

1 Q. Where do you currently work at?

2 A. The company is Solar Titan USA.

3 Q. And what is your position there?

4 A. I'm a recruiting manager.

5 Q. Have you ever worked in human resource?

6 A. Yes, sir.

7 Q. How long have you worked in human resource?

8 A. About 30 years.

9 Q. Just explain to us, what is that?

10 What does human resources involve?

11 What's its purpose?

12 A. In the private world, it's to be an employee
13 advocate. It's to be -- you do the hiring, the
14 disciplines, the terminations, any kind of advocate
15 that the employee needs and the management for
16 training.

17 In the public world, it's not quite like
18 that.

19 Q. Is training regarding sexual harassment an
20 important part, whether it's private or public?

21 A. Yes, sir.

22 Q. Do you regularly attend training and sexual
23 harassment in the work place?

24 A. Yes, sir.

25 Q. And do you also provide training to companies

1 or organizations regarding sexual harassment in the
2 work place?

3 A. And on the company, yes, sir.

4 MR. STANLEY: Mrs. Lewis, can I have the
5 overhead projector (talking to the Court Clerk)?

6 BY MR. STANLEY:

7 Q. Mr. Bearden, I'm going to show you what's
8 been pre-marked as exhibit 27. Do you recognize
9 that manual?

10 A. Yes, sir, I do.

11 Q. And what is that manual?

12 A. It's the Anderson County government employee
13 handbook.

14 Q. Were you involved in the creation of this at
15 all?

16 A. Yes, I was.

17 MR. STANLEY: Let me move that into
18 evidence as the next Exhibit, 27.

19 THE COURT: Admitted.

20 (WHEREUPON, a previously marked document
21 was admitted as Exhibit Number 27.)

22 BY MR. STANLEY:

23 Q. And does it have a section regarding, or at
24 least, a written section regarding sexual
25 harassment?

1 A. Yes, sir, it does.

2 Q. That's what I want to talk about, is the
3 policies of Anderson County, regarding sexual
4 harassment.

5 Now, this policy, was it voted on by the
6 commission to be adopted by all the departments?

7 A. Yes, sir.

8 Q. And did those departments actually adopt this
9 policy?

10 A. Not all of those departments no, sir.

11 Q. So, you can actually opt out of these
12 policies.

13 A. Yes, you can.

14 Q. So, if the mayor testifies that you can opt
15 out and the department still opts out, that would
16 not be true?

17 A. That is not true.

18 Q. And who did opt out of this policy, some of
19 the departments?

20 A. The county clerk's office; the mayor's
21 office; the permitting department; Johnny Alley's
22 department; property assessor.

23 Q. So, if they opt out of this policy, the
24 written policy list, what is the real custom and
25 policy regarding sexual harassment in Anderson

County?

A. In those departments, they can do what they wanted to. It was their department.

Q. It's just up to the department head?

A. Yes, sir.

Q. Whatever they wanted?

A. Yes, sir.

Q. And then, in the clerk's office, that would have been William Jones?

A. Yes, sir.

Q. Forget the written policies, it was his policies is all that mattered, right?

A. Yes, sir.

Q. He was the final policymaker in that department?

A. Yes, sir.

MR. KNIGHT: Objection; calls for legal conclusion.

THE COURT: Sustained.

BY MR. STANLEY:

Q. Let me show you what's been pre-marked as Exhibit 21. I want to just discuss some of Mr. Jones' agreeance with the harassment policies. This is pre-marked Exhibit 21, third page.

This is an e-mail from you to a Mr. Owaski

1 (phonetic). Who is Owaski?

2 A. He was a commissioner at the time.

3 Q. Was he one of your supervisors or somebody
4 you answered to?

5 A. No, sir.

6 Q. Just tell the jury what this e-mail is about.
7 What was the purpose?
8 Was it to document what had happened?

9 A. Yes, the governor had passed an anti-bullying
10 for the state for government employees. So we
11 included that in there. But we tried to put in the
12 Tennessee Drug Free, Social Media Bullying and
13 Harassment in the Workplace. We had training with
14 those -- with the county.

15 Q. And according to this e-mail, it looks like
16 you put on a meeting and it says: "William Jones
17 was present. He repeatedly asked me how we could
18 enforce these policies on elected officials."

19 A. Yes, sir.

20 Q. So, again, even though there might be a
21 written policy, they don't have to adopt it, do
22 they?

23 A. No, sir.

24 Q. What did he do with your policy when he said
25 that?

1 Did he physically do anything?

2 A. Yes, sir. There was a signature page on the
3 back for them to sign as they left and turned it in,
4 and he put "BS" across it and tossed it at me.

5 Q. I guess that means he rejected the policy.

6 A. Yes, sir.

7 Q. Why would he reject these kind of bullying
8 policies promoted by the governor?

9 A. I don't know.

10 MR. KNIGHT: Objection. Calls for an
11 attempt to get inside Mr. Jones' head.

12 THE COURT: Counsel.

13 MR. STANLEY: I'll withdraw the
14 question.

15 BY MR. STANLEY:

16 Q. Again, Exhibit 21, Page 2, is this -- this is
17 the Anderson County Human Resource Advisory Board
18 minutes. Can you tell us what is in Paragraph 1.

19 A. I had --

20 (Simultaneous, unreportable crosstalk.)

21 MR. KNIGHT: Objection to relevance.

22 This is a social media and bullying in
23 the workplace policy. It doesn't say anything about
24 sexual harassment.

25 MR. STANLEY: It's harassment. Your

1 Honor, it goes to the widespread failure to train at
2 all -- in any of these departments.

3 THE COURT: Does the second line have
4 the word "harassment" in it?

5 MR. KNIGHT: It has the word
6 "harassment", not "sexual".

7 MR. STANLEY: And it has violence in the
8 workplace policies.

9 THE COURT: Overruled.

10 BY MR. STANLEY:

11 Q. Tell us, what was this word minutes
12 regarding?

13 A. These are minutes of the human resource
14 advisory board where I had proposed the policy for
15 social media, bullying in the workplace, and
16 harassment. There were some changes we had done to
17 the policy what was in place: Ethics, violence,
18 workplace policies. And they were voted on by the
19 elected officials.

20 Q. And did anybody oppose those?

21 A. Yes, sir, they did.

22 Q. Who was it?

23 A. It was Mr. Jones and Mr. Alley.

24 Q. Did they tell you why?

25 A. No, sir.

1 Q. Did the mayor attend this?

2 A. No, she did not.

3 Q. Did anybody ever attend any training that you
4 were aware of, regarding sexual harassment in the
5 workplace?

6 A. Did anyone?

7 Q. In the clerk's office.

8 A. No, they did not.

9 Q. So, was the clerk's office properly trained
10 on what is sexual harassment?

11 A. I can not say that.

12 Q. Did they train anyone on how to report sexual
13 harassment, that you're aware of?

14 A. I'm not aware of it.

15 MR. STANLEY: Your Honor, did I move
16 this in, or Mrs. Lewis; Exhibit 21.

17 (WHEREUPON, a document was marked as
18 Exhibit Number 21.)

19 THE CLERK: Did you want the docu- --
20 did you want the laptop on the Elmo?

21 MR. STANLEY: Yes.

22 THE CLERK: Okay. Sorry. I didn't --

23 MR. STANLEY: I'm probably going to
24 continue. No, you can leave it on.

25 THE CLERK: Okay. I thought you were

1 going to use the laptop. I apologize.

2 MR. STANLEY: I'm not going to use the
3 laptop. I'm just going to use paper (indicating
4 Elmo).

5 BY MR. STANLEY:

6 Q. Okay. Let's discuss your time, actually, at
7 Anderson County.

8 What year did you start employment there?

9 A. I think it was January -- January/February of
10 2015.

11 Q. At the time, who was running the human
12 resource department?

13 A. A lady by the name of Nicole Lucas. She was
14 an employee there.

15 Q. And we have already moved into evidence, her
16 statement, which is Exhibit 13. I just want to ask
17 you some questions about that.

18 (WHEREUPON, a previously marked
19 document was shown as Exhibit Number 13.)

20 BY MR. STANLEY:

21 Q. Here, it states that Russell Bearden had been
22 hired upon taking the position. I explained the
23 issue to him regarding William Jones and that I had
24 received telephone complaints and written
25 complaints, separate from mine, regarding Mr. Jones.

1 And then, it goes on to discuss how he was
2 taking 2 or 3-hour lunch breaks, according to one
3 complainant. Did I read that correctly?

4 A. Yes, sir.

5 Q. Do you remember that somewhat?

6 A. I do not remember any complaints. I remember
7 the complaints about William, as far as treatment,
8 but not in a sexual manner.

9 Q. So --

10 A. I do remember the long lunches.

11 Q. Okay. And I just want to see -- if you got
12 here in February -- this is a memo from you, March
13 the 3rd of 2015, correct?

14 A. Yes, sir.

15 Q. So, you're just kind of new, trying to figure
16 out who's who and how the department is being run,
17 I'm assuming.

18 A. Yes, sir.

19 Q. This looks like you're following up on those
20 complaints regarding the 2-hour lunches, correct?

21 A. Yes, sir.

22 Q. I notice that he says in here, this is
23 Mr. Jones, that he knew who complained to you. He
24 told you in your memo that he knows who these people
25 were that made the complaints, right?

1 A. He says that, yes, sir.

2 Q. And then underneath, he went -- he goes on to
3 discuss how he could go about cutting two members of
4 the team's salary, does he not?

5 A. Yes, sir.

6 MR. STANLEY: Let's move that into
7 evidence; Exhibit 32, Your Honor.

8 THE COURT: Any objection?

9 MR. KNIGHT: No objection, Your Honor.

10 THE COURT: It will be admitted.

11 (WHEREUPON, a document was marked as
12 Exhibit Number 32.)

13 BY MR. STANLEY:

14 Q. You knew that Ms. Lucas filed a complaint,
15 but was that complaint in her personnel file?

16 A. No, sir, it wasn't.

17 Q. Does Anderson County, does it have problems
18 with the personnel files or have they ever had
19 issues with people trying to take documents out of
20 personnel files?

21 A. There have been problems in the past, yes,
22 sir.

23 Q. Tell us about those.

24 A. There was --

25 MR. KNIGHT: Judge, that's outside the

1 scope of his personal knowledge.

2 BY MR. STANLEY:

3 Q. Do you have personal knowledge about --

4 A. Yes, I do.

5 Q. -- people trying to go to the human resource
6 department and actual take documents out of the
7 people's employment files?

8 A. I know the sheriff's department set up a card
9 to keep people from going in, after an allegation.

10 Q. An allegation regarding retaliatory
11 discharge?

12 A. Yes, sir.

13 Q. Even though Ms. Brown -- we've heard about
14 her complaint already and it's into evidence.

15 She wasn't working there when you reached
16 out to her, was she?

17 A. No, sir.

18 Q. You reached out to her to try to find out
19 what had happened, because a lot of this happened
20 while you were not there, right?

21 A. Yes, sir.

22 Q. Again, you're just trying to figure out
23 what's going on in this department.

24 When you found out about Angela brown, did
25 you confront William Jones about these allegations?

1 A. Yes, I did.

2 Q. What did he say to you and how was his
3 attitude?

4 A. He laughed and said that he did not have a
5 boss, except for the voters. And then he made a
6 very lewd comment, to give an example.

7 Q. Did you confront the mayor or were you
8 specific about his vulgar comments or lewd comments?

9 A. You want me to be specific?

10 Q. Well, were you specific to the mayor?

11 A. Oh, yes, sir.

12 Q. We've got the document. We've seen the
13 documents.

14 Well, what was her response?

15 A. That he was new and that he probably needed
16 some training.

17 Q. Did she obviously tell you to contact legal?

18 A. She told me not to contact legal at that
19 time.

20 Q. Why would she tell you not to contact legal?

21 A. I think it would have caused a big stink,
22 because legal and the mayor's office were at odds
23 with each other, constantly.

24 Q. A political stink?

25 A. Yes, sir.

1 Q. Was the mayor very politically active,
2 obviously?

3 A. Yes, sir.

4 Q. And so was Mr. Jones?

5 A. Yeah -- I don't know that -- or he was the
6 head of the republican party, so, yes, sir.

7 Q. He was the head of the republican party at
8 the time?

9 A. Yes, sir.

10 Q. Did the mayor ever tell you personally that
11 she had political aspirations higher than being
12 mayor?

13 A. Yes, she did.

14 Q. What did she tell you?

15 A. She told me that she was wanting to go for
16 the state senate. I forget his name, but when he
17 retired, she would like to run for that if it's
18 possible.

19 Q. You don't want to rock any boats if you're
20 trying to run for higher office, right?

21 A. I assume.

22 Q. Do you recognize Ms. Frank and Mr. Jones in
23 this picture?

24 A. Yes, sir.

25 MR. STANLEY: I'd like to move this into

1 evidence as Number 55.

2 THE COURT: It will be admitted.

3 (WHEREUPON, a document was marked as
4 Exhibit Number 55.)

5 BY MR. STANLEY:

6 Q. Mr. Bearden, because of what Ms. Harnness
7 did, a lot of victims came forward, right?

8 A. I'm sorry?

9 Q. Because of Ms. Harnness coming forward, a lot
10 of victims came forward, correct?

11 A. Yes, sir.

12 Q. One of those was Valerie Walker. Do you
13 remember her?

14 A. Yes, I do.

15 Q. Do you remember speaking with her?

16 A. Yes.

17 (WHEREUPON, a previously marked
18 document was shown as Exhibit Number 38.)

19 BY MR. STANLEY:

20 Q. I'm going to show you what's been pre-marked
21 as Exhibit 38.

22 Do you remember ever seeing this document
23 and reviewing it?

24 A. I do.

25 Q. And I'm not going to read the whole thing,

1 but let me just go over a few things I want to ask
2 you about, because I don't think this has been put
3 into evidence.

4 One of the things, obviously, is what
5 people -- he would refer other people to. And she
6 states in there: "I felt that if I didn't go along
7 with Mr. Jones, that I would be the next employee
8 to be targeted."

9 That insinuates there's been prior people
10 that he's targeted, correct?

11 A. Yes, sir.

12 Q. She goes on to say: "He's a tyrant and runs
13 his office with fear, by targeting employees that he
14 did not think too highly of, belittling employees if
15 they made a mistake and just by blatant arrogance."

16 And one of the employees that was targeted
17 was an Angie Alley (phonetic). Did you know her?

18 A. I did.

19 Q. She would keep a box under her desk at all
20 times, because she was afraid that Mr. Jones was
21 going to fire her at anytime?

22 A. That was Valerie's statement. I did not see
23 the box.

24 Q. Did he fire her?

25 A. Yes, he did.

1 Q. Mr. Jones would instruct office managers to
2 write up employees he didn't like for the smallest
3 of infractions so that Mr. Jones would have grounds
4 to fire them.

5 Did he have some people that was sort of
6 like his minions that would do his dirty work, as
7 far as doing reprimands?

8 A. Yes, sir.

9 Q. And who were those people?

10 Metcalf?

11 A. Yes, Angela Metcalf.

12 Q. Who was the highest paid clerk in the office?

13 A. Angela.

14 Q. By far?

15 A. I believe so.

16 Q. It states in here that: "Mr. Jones had
17 everyone on edge so much that maintenance would
18 knock on the door before entering the office, so
19 that we would know who was coming in and wouldn't be
20 so jumpy."

21 Did you know that was going on before this
22 statement was happening?

23 A. No, sir.

24 Q. It become very well known that if you made
25 Mr. Jones mad or he just didn't like you, you were

1 moved to General Sessions 2 and you were on your way
2 out.

3 Was that the general consensus of most of
4 the people that you-all talked to?

5 A. Yes, sir.

6 Q. Mr. Jones told me about a county employee who
7 was standing at the General Sessions 1 counter and
8 he snuck up behind her and took the tip of his
9 umbrella and ran it up the inside of her leg.

10 Did we ever find out who that was?

11 A. No, sir, not that I'm aware.

12 Q. There are probably lots of victims we don't
13 know about, correct?

14 MR. KNIGHT: Objection.

15 THE COURT: Sustained.

16 BY MR. STANLEY:

17 Q. For instance, "Anonymous," we never found out
18 who that was.

19 A. No, sir.

20 MR. KNIGHT: Objection.

21 MR. STANLEY: It is anonymous.

22 MR. KNIGHT: I withdraw, because it is
23 anonymous.

24 BY MR. STANLEY:

25 Q. And finally, this just sort of describes what

1 one of these women went through when she lost her
2 job, and it was just painful on her family. She
3 lost her insurance, her retirement benefits. She
4 had cash in her 401(k) --

5 MR. KNIGHT: Your Honor, how is this
6 relevant?

7 Is this part of the statement?

8 THE COURT: Counsel.

9 MR. STANLEY: It's relevant to a hostile
10 work environment. This guy tortured these women,
11 Your Honor.

12 THE COURT: Is this person a party to
13 this litigation?

14 MR. STANLEY: No, Your Honor.

15 I'd like to move this into evidence;
16 Exhibit 38.

17 (WHEREUPON, a previously marked document
18 was admitted as Exhibit Number 38.)

19 BY MR. STANLEY:

20 Q. Isn't it true that he inflicted a lot of
21 pain on --

22 THE COURT: Any objection to the
23 admission of this document?

24 MR. KNIGHT: Isn't it already in
25 evidence?

1 MR. STANLEY: This one's not in, I don't
2 think, Your Honor.

3 MR. KNIGHT: Can I confer briefly, Your
4 Honor?

5 THE COURT: You may.

6 MR. STANLEY: And, Your Honor, it would
7 go to notice.

8 (An off-the-record discussion was
9 held.)

10 MR. KNIGHT: No objection, Your Honor.
11 I'm sorry.

12 THE COURT: It's admitted.

13 MR. KNIGHT: Is that 38?

14 BY MR. STANLEY:

15 Q. "If it weren't for my friends and family, I
16 wouldn't have a home right now. This stress has
17 caused me many days of not being able to eat or
18 sleep.

19 I never questioned Mr. Jones, because I was
20 afraid that he would do just what he said."

21 He threatened these women, didn't he?

22 A. Yes, sir, he did.

23 Q. I'm now going to show you what's been
24 pre-marked as Exhibit 15.

25 (WHEREUPON, a previously marked

document was shown as Exhibit Number 15.)

BY MR. STANLEY:

Q. This is an affidavit from you in which you interviewed some people and attached documents, correct?

A. Yes, sir.

Q. One of the persons you interviewed was Rodney Harness, correct?

A. Yes, sir.

Q. That was Ms. Harnness' husband at the time?

A. Yes, sir.

Q. You even have a witness that came with you, right?

A. I did.

Q. He even brought notes with him, correct?

A. Yes.

Q. And you took notes down, correct?

A. Stephanie Strickland took the notes.

Q. Okay. Based on your interview with him, you appear to have done an affidavit discussing some of that and I'd like to read that.

This affidavit was done, February 27, 2018.
It's been pre-marked as Exhibit 35.

(WHEREUPON, a previously marked
document was shown as Exhibit Number 35.)

1 BY MR. STANLEY:

2 Q. And he here is talking about -- the husband
3 complied with Mayor Frank's -- hold on a second.
4 Rodney Harness Affidavit -- February 27, 2018. Oh,
5 I'm sorry.

6 In his written statements and during the
7 interview, is what we just looked at, with the HR
8 office, the husband asserted he had informed the
9 mayor of the late night Snapchats between his wife
10 and Mr. Jones.

11 Did I read that correctly?

12 A. Yes, sir.

13 Q. So, if the mayor testified yesterday that he
14 never mentioned Snapchats, he just mentioned she's
15 not getting paid what she should be, would that be
16 false?

17 A. According to Mr. Jones, yes, sir.

18 Q. And then, you've got on here, two days later,
19 after the husband complied with Mayor Frank's
20 request to provide her with his life's resume, the
21 victim was offered a full-time position with the
22 circuit court clerk's office.

23 The mayor never informed the HR office of
24 the allegation made by the victim's husband, did
25 she?

1 A. No, sir.

2 Q. Here's what I really want to ask about,
3 because this is something I quite can't understand.

4 You've had several complaints now. You've
5 had Nicole Lucas and Angela brown, and now you've
6 got Gail Harness.

7 You said here: "Mayor Frank specifically
8 told me, specifically told me not to contact the
9 law director, because he would not do anything but
10 cause a political storm;" is that correct?

11 A. Yes, sir.

12 Q. Did she put politics over the victims in this
13 case?

14 A. In my opinion, yes, sir.

15 Q. Did she protect Mr. Jones over protecting the
16 women in the office?

17 A. Yes, she did.

18 MR. STANLEY: I would like to move
19 Exhibit 35 into evidence.

20 THE COURT: Admitted.

21 (WHEREUPON, a previously marked document
22 was admitted as Exhibit Number 35.)

23 BY MR. STANLEY:

24 Q. You've had several conversations with
25 Mr. Jones, correct?

1 A. I did.

2 Q. This is while you were in HR at the Anderson
3 County office?

4 A. Yes, sir.

5 Q. Would he talk about inviting employees to his
6 tanning bed?

7 A. Yes, he did.

8 Q. Did he brag about what he was doing up there?

9 A. No, sir.

10 Q. And what did he say about it?

11 A. He said he invited them there to spend some
12 alone time with him and "Mama".

13 Q. And who is "Mama"?

14 A. That was his wife, Amy Jones.

15 Q. So, he referred to -- he made people call him
16 "Daddy" and his wife was "Mama"?

17 A. Yes.

18 Q. Was the mayor ever made aware of the
19 specifics of an investigation on Mr. Jones while he
20 was at the office?

21 A. Yes.

22 Q. So, she knew about the TBI investigation?

23 A. Yes, sir.

24 Q. So, if she testified she didn't know about
25 the specifics, that would be a false statement?

1 A. Yes, sir, it would be.

2 Q. And what were the specifics?

3 A. The TBI had contacted me. Mr. Jones had
4 stated to me that he had placed cameras in the
5 tanning salon and had taken pictures of members of
6 the public. And I had reported that to Mr. Yeager
7 and he reported it to the TBI.

8 Q. And the mayor knew?

9 A. I'm sorry?

10 Q. And the mayor knew?

11 A. Yes.

12 MR. STANLEY: You may ask.

13 MR. KNIGHT: Did you admit 15?
14

15 CROSS-EXAMINATION

16 QUESTIONS BY MR. KNIGHT:

17 Q. Mr. Bearden, you realize that Ms. Harness has
18 sued the county over the actions of an elected
19 official, William Jones?

20 A. Yes, sir.

21 Q. You knew that, right?

22 A. Yes, sir.

23 Q. And we just talked about your tenure. You
24 came in early 2015. And then, when did you resign?

25 A. 2018, in, I want to say it was March.

1 Q. Could it have been in the fall of 2017,
2 Mr. Bearden?

3 A. Oh, yes, it was. I'm sorry. Yes, it was.

4 Q. So you're incorrect when you say March of
5 2018?

6 A. Yes, sir.

7 Q. And Exhibit 15 that you were just shown,
8 Stephanie Strickland was also there and took notes,
9 correct?

10 A. Yes, sir.

11 Q. And the notes that Mr. Harness provided was a
12 statement dated 9/10/2017, correct?

13 A. I don't have that here.

14 Q. Oh. It's the first page.

15 Do you recognize that as Mr. Harness' notes?

16 A. It looks so. I'm not for sure on that.

17 Q. Well, it's in the exhibit, so I guess the
18 jury can look at it signed by -- I'm sorry. On the
19 last page of it, signed by Rodney Harness,
20 9/10/2017; is that correct?

21 A. Yes, sir.

22 Q. And he didn't provide any contemporaneous
23 notes from when he spoke to the Mayor in 2016, did
24 he?

25 A. No, sir. He had provided phone records later

1 who they had contacted regarding this.

2 Q. Yes. And one of them was the Mayor, and she
3 called him back; is that correct?

4 A. I don't remember that, sir.

5 Q. Okay. Well, you seem to remember a lot about
6 the Mayor, so that's why I was asking.

7 Now, Stephanie Strickland was also in that
8 meeting, wasn't she?

9 A. Yes, sir.

10 Q. And she took notes, didn't she?

11 A. Yes, sir.

12 Q. Now, you've testified that Mr. Harness told
13 the Mayor, and even executed an affidavit, that she
14 kept Human Resources in the dark about Snapchatting
15 with Ms. Harness.

16 Now, look at Ms. Strickland, fourth bullet
17 point down, and I'll read it, "He was shocked"
18 -- all right. Let me just start. "Looked up
19 Tennessee Gov. Called Governor's office, told them
20 names of employees and officials flirting in the
21 office. Governor's office directed him towards
22 Mayor. He was shocked she answered. He told mayor
23 story. Explained Gail was overlooked."

24 Meaning she wanted to be full-time, correct?

25 A. Yes, sir.

1 Q. He didn't mention flirting. Now that's
2 contrary to what you just said Ms. Strickland's
3 notes say.

4 A. He had told us he knew that there were late
5 night Snapchats, but didn't know the content. He
6 asked to see them.

7 Q. I'm talking about Ms. Strickland, what she
8 said, when he called the Mayor in 2016. You don't
9 have any contemporaneous notes from Mr. Harness
10 about any conversation that he had with the Mayor
11 according to Ms. Strickland, which is an exhibit
12 that the Plaintiff put in, that the Mayor was not
13 told about any flirting. It was about Gail going
14 from part-time to full-time.

15 A. I think that was the conversation, yes, sir.

16 Q. Okay. And that's not what you testified to
17 earlier, is it?

18 A. Can you tell me what I testified to?

19 Q. You testified that she -- even executed an
20 affidavit that was admitted that she knew back in
21 2016 from her conversations with Mr. Harness that
22 she was being sexually harassed?

23 A. She knew from me back in 2015 that there were
24 allegations against Mr. Jones.

25 Q. But that's not what your affidavit said. It

1 was underlined, was it not?

2 A. I wasn't in that meeting, so I don't know.

3 I'll go with what Rodney had said.

4 Q. You weren't in that meeting. It lists you --

5 A. I'm talking about in the meeting with the
6 Mayor and Rodney.

7 Q. You were on the phone call?

8 A. No, sir.

9 Q. So, you really don't know, do you?

10 A. I don't know anything except what Rodney had
11 told us.

12 Q. And what Rodney said was he didn't mention
13 flirting in 2016; isn't that correct?

14 A. Can you show me that?

15 Q. Well, according to Ms. Strickland's notes
16 that I just read you to you, that's how he -- he was
17 shocked the Mayor answered; told Mayor of stories
18 explaining Gail was overlooked. I asked you, does
19 that mean he was talking about putting her
20 full-time. He didn't mention flirting; told Mary
21 Phillip she was being discriminated against;
22 explained Gail loved her job and gets it done. He
23 wanted her to go full-time. He didn't mention the
24 flirting in that 2016. And it wasn't until he
25 signed that statement that I showed you earlier that

1 he mentioned anything about flirting towards the
2 end; isn't that correct?

3 A. I guess so. I don't remember it.

4 Q. You don't remember even though you were
5 present at the meeting?

6 A. This has been five years ago, sir.

7 Q. Well, you seem to remember a lot about what
8 the Mayor does and what her political aspirations
9 are and all that kind of stuff.

10 You don't really like her, do you?

11 A. I don't think that has any bearing on it.

12 Q. I think it does.

13 You don't really like the Mayor, do you?

14 A. I don't like the way she acts. I don't like
15 the way she treats people. I don't like the way she
16 retaliates. But as a person, I don't have anything
17 against her.

18 Q. But you don't like her, do you? That's why
19 you go to Jay Yeager for everything. You mentioned
20 there's a discord between legal and the Mayor.

21 A. I didn't trust her.

22 Q. You didn't like her?

23 A. I didn't trust her.

24 Q. Now, you were -- Angela Brown's been brought
25 up many times in this lawsuit. You interviewed her

1 in 2015, and it was over questions in a job
2 application; is that correct?

3 A. Yes, sir.

4 Q. And you confronted Mr. Jones about that,
5 didn't you?

6 A. Yes, sir.

7 Q. And he denied it, didn't he?

8 A. No. He denied -- he only talked -- said he
9 admitted to asking her where she lived, and that it
10 was a bad -- it was a poor, low rent neighborhood.

11 Q. That's what he admitted to?

12 A. Yes, sir.

13 Q. And then you decided that -- and you went to
14 the Mayor and she said that Jones needed to be
15 trained; isn't that correct?

16 A. Yes, sir.

17 Q. And you closed the file on that, didn't you?

18 A. I did because I could not get in touch with
19 Angela Brown to follow up. Jones, he had provided a
20 written statement back to me, and I followed up with
21 her on the some of discrepancies, or tried, and I
22 could not get in touch with her, so I had no choice.

23 Q. And in your opinion, it didn't rise to the
24 level of sexual harassment, did it?

25 Isn't that what you concluded in a letter?

1 A. I don't know, 'cause it was very sexually
2 suggestive. I don't know that it was harassment.
3 There was talk about eating yogurt in his office and
4 he had a fetish for that.

5 Q. Okay. But didn't you conclude that 30 years
6 of experience in HR, that it didn't rise to the
7 level of sexual harassment?

8 A. I think I believe I said I closed it, because
9 I couldn't get information.

10 Q. Mr. Jones did go to CTAS training, did he
11 not?

12 A. I set him up for Ogletree Deakins for
13 training. He agreed to go.

14 Q. That's not my question, Mr. Bearden. He did
15 go to CTAS training, did he not?

16 A. CTAS training is a computerized program.
17 Yes, he did. He brought a certificate for that.

18 Q. I'm not sure this has been admitted. This is
19 what I've been asking you about, Mr. Bearden.

20 May 29, 2015, at the end of the first paragraph,
21 this is you writing: "Mr. Jones realizes that the
22 statement like this could offend a person, but it
23 does not rise to the level of sexual harassment."

24 You wrote that, right?

25 A. Yes, sir, I did.

1 Q. And then, it said -- then it talks about what
2 you said. You tried to contact Ms. Brown and you
3 couldn't get in touch with her, so you closed it,
4 correct?

5 A. Yes, sir.

6 Q. And then on the third paragraph it shows that
7 Jones did complete training offered by the
8 University of Tennessee CTAS as an educational tool
9 for identifying sexual harassment. Is that not what
10 it says?

11 A. Yes, sir.

12 Q. And there was no further investigation on
13 Ms. Brown, because you never were able to get in
14 touch with her, correct?

15 A. Not to my knowledge.

16 Q. And the next time anyone came in or made a
17 complaint was Ms. Harness, correct?

18 A. Yes, sir.

19 Q. And that was -- do you recall that being
20 August 9th, 2017?

21 A. I don't remember the date. But, yes, sir,
22 end of '19.

23 Q. And she came in and gave a sworn statement,
24 correct?

25 A. Yes.

1 Q. And at that sworn statement, you and
2 Mr. Yeager had her removed from the Clerk's Office,
3 correct?

4 A. No, sir.

5 Q. No?

6 A. No, sir.

7 Q. How -- did she go back to the Clerk's Office?

8 A. She did when we tried to investigate, yes,
9 sir.

10 Q. No. I'm talking about after she gave her
11 sworn statement on September 14, 2017, she was taken
12 out of the --

13 A. She was, yes.

14 Q. And she went home on administrative leave
15 with pay and benefits, correct?

16 A. Yes.

17 Q. And she stayed there, correct, until she
18 got -- well, it's outside of your time. But she
19 eventually went to the Senior Center sometime in
20 March of 2018. Do you know that?

21 A. I've heard that, yes.

22 Q. And all this time the County paid her her
23 full salary and benefits?

24 A. Yes, sir.

25 Q. As if she was still at the Clerk's Office,

1 but away from Mr. Jones, correct?

2 A. Yes, sir.

3 Q. And so, 2017 was the third year of Mr. Jones'
4 term, correct?

5 A. I believe.

6 Q. And so, he was going to have to run for
7 election in March -- I'm sorry, in the primary in
8 May of 2018, correct?

9 A. Yes, sir.

10 Q. And he did and he lost, correct?

11 A. Yes, sir.

12 Q. And are you aware that the County Commission
13 drafted a resolution censuring Mr. Jones in 2018?

14 A. Yes, sir.

15 Q. And quite frankly, when you-all went off, you
16 and Ms. Whitaker -- you know Ms. Whitaker, don't
17 you?

18 A. Yes, I do.

19 Q. You-all went and interviewed people that you
20 know have given statements, correct?

21 A. Yes, sir.

22 Q. And that's the only way you would have known?

23 A. Only way I would have known what?

24 Q. About anything going on in the Clerk's Office
25 were these statements in 2017.

1 A. There were rumors.

2 Q. Rumors. Well, there's rumors about a lot of
3 things.

4 A. Absolutely. But these are the only ones that
5 came forward?

6 Q. Right. And so -- but the point is that
7 Anderson County HR sought them out, correct?

8 A. No. After Gail, some of them came in on
9 their own. We were told names and I did contact
10 some of them, but we had some come in on their own.

11 Q. Well, you say you don't trust the Mayor. She
12 actually told me one of the first things you did
13 when you came was you wanted to post -- do a posting
14 about -- at various parts of the Anderson County
15 government building about sexual harassment and how
16 to report it.

17 A. Yes, sir.

18 Q. And you did that?

19 A. I did. I asked her to sign it and she
20 refused, so I signed it.

21 Q. You signed it?

22 A. Yes.

23 Q. Is this the posting?

24 A. Yes.

25 Q. It says, Russell Bearden, if any employee or

1 applicant who has questions concerning the Anderson
2 County policy prohibiting harassment or wishes to
3 discuss any matter confidentially, may contact you.

4 A. Yes.

5 Q. Is that correct?

6 And you wanted people to contact you,
7 correct?

8 A. If they needed to. I was hoping --

9 Q. And you would have --

10 A. -- we wouldn't have had any harassments.

11 Q. And you would have kept it confidential. It
12 says it right here.

13 A. In the policy manual it says it would be kept
14 confidential until the point it could no longer be
15 done that way.

16 Q. So what were you telling these people? It
17 says, discuss any matter of confidentially; may
18 contact you.

19 A. It's self-explanatory.

20 Q. You weren't going to run around the
21 courthouse and tell everybody that somebody came in
22 to talk to you about an allegation of sexual
23 harassment, were you?

24 A. No, sir.

25 Q. And one of the things that the Mayor told me

1 also was that you conducted training about the
2 workplace and discrimination, harassment, all kinds
3 of things, retaliation. You recall doing that?

4 A. Yes, sir.

5 Q. And even had slides. And she attended that
6 training, didn't she?

7 A. I do not believe so -- she did. I don't
8 think so.

9 Q. You don't think so or do you not know?

10 A. I don't know.

11 Q. Is this another mistake?

12 A. Excuse me?

13 Q. Is this a mistake, you just don't know? You
14 were mistaken about when you left government.

15 A. (Laughing.)

16 Q. Well, I mean, I want to know. Did she attend
17 your training in 2015?

18 A. Sitting here today, I don't remember.

19 THE COURT REPORTER: I'm sorry, Judge,
20 if you could have him repeat that.

21 THE COURT: He said he didn't remember.

22 THE COURT REPORTER: Okay. Thank you.

23 MR. KNIGHT: I'm sorry. I don't think
24 this was admitted, Your Honor. Which exhibit was
25 this, 3? Any objection?

1 MR. STANLEY: I don't have any
2 objection.

3 THE COURT: Without objection, it's
4 received.

5 THE CLERK: Is that Plaintiff's exhibit
6 or Defendant's?

7 MR. KNIGHT: It's Plaintiff's 3.

8 MS. BURCHETTE: It's not 3.

9 MR. KNIGHT: What is it?

10 MS. BURCHETTE: I don't know. It might
11 be --

12 (WHEREUPON, a document was marked as
13 Exhibit Number 3.)

14 MS. BURCHETTE: It's 3.

15 MR. KNIGHT: It is 3.

16 THE CLERK: Okay. Thank you.

17 BY MR. KNIGHT:

18 Q. Didn't the Mayor tell you she thought it was
19 an excellent idea to make these postings?

20 A. Yes, she did.

21 Q. Now, when you were at Anderson County and
22 there were new hires, did they have to go to the HR
23 Department?

24 A. They filled out their paperwork there, yes,
25 sir.

1 Q. Right. And do you remember Ms. Harness came
2 in as an intern, and then part-time, then full-time
3 at the Clerk's Office?

4 She would have come to Human Resources to
5 fill out paperwork?

6 A. She would have, yes.

7 Q. And sitting here today, do you even know when
8 that was?

9 A. No.

10 Q. Whether it was 2000 -- it had to be after you
11 got there.

12 A. Yes, sir. I didn't -- there were three
13 people in the HR office. I wouldn't have
14 necessarily been the one to take her paperwork.

15 Q. Okay. But do you recall, or do you remember,
16 or do you disagree with, was it sometime in June or
17 July of 2016 that she became full-time?

18 A. I don't disagree.

19 Q. Okay. Now, the thing about Mr. Jones, and
20 you were talking about the differences between
21 private and public, is that he was an elected
22 official, correct?

23 A. True.

24 Q. The Mayor didn't appoint him clerk. They
25 have to run, correct?

1 A. Yes.

2 Q. And really the only way to get someone in
3 that, or two ways that I understand, either Judge
4 Elledge could have removed him for some reason, or
5 there had to be -- there was an ouster suit filed
6 after a full investigation, which no one knows how
7 long that could have taken, correct?

8 A. I don't know the part about Judge Elledge,
9 but the ouster suit, that is true.

10 Q. Okay. And by the time that you removed Gail
11 Harness, it was already 2017, and the election, if
12 he was defeated, he wouldn't be there any longer.
13 There just wasn't a lot of time to file an ouster
14 suit in 2017, correct?

15 A. That's true. And the ouster suit only lasts
16 for that term.

17 Q. Right. So you would have to file two ouster
18 suits. If he had gotten re-elected, you would have
19 had to file another ouster suit, correct?

20 A. Yes, sir.

21 Q. You know Jay Yeager, correct?

22 A. I do.

23 Q. Do you consider him to be an honest and
24 reputable person?

25 A. Yes, I do.

1 Q. And they read his deposition and he said he
2 contacted a lot of people about calling him an
3 "ouster suit". You have any reason to disagree that
4 Jay did that?

5 A. No, sir.

6 Q. This affidavit -- I'm sorry, from Valerie
7 Walker, you didn't take it, did you?

8 A. Can you put it back up, please?

9 Q. Would it -- it's been admitted into evidence
10 without objection. Would it surprise you that it
11 was taken in March of 2018?

12 A. I'd have to see it. I don't know.

13 Q. Nicole Lucas was there when you were -- she
14 was running the department when you got there,
15 correct?

16 A. Yes, sir.

17 Q. And she was one of the individuals that gave
18 a statement in 2018, correct?

19 A. I believe so. I was --

20 Q. After Ms. Whitaker sought her out, correct?

21 A. I don't know that.

22 Q. You fired Ms. Lucas, didn't you?

23 A. I did.

24 Q. And that was in 2015, correct?

25 A. Yes, sir.

1 Q. You didn't think she was up to working in
2 Human Resources, correct?

3 A. I didn't think what?

4 Q. She was up to working in Human Resources.

5 A. Her performance was poor.

6 Q. Okay. I just found Ali Walker's affidavit.
7 You were asked -- it looks like she swore to this in
8 March 14, 2018. Does that refresh your
9 recollection?

10 A. Yes, sir, that would have been after my time.

11 Q. Were you ever complained on in your
12 department for harassing, not sexually, but just
13 berating an employee?

14 A. Me, personally?

15 Q. Yes.

16 A. No, sir.

17 Q. Connie Yates didn't file a complaint against
18 you or complain about you?

19 A. Yes, she did. I forgot about that.

20 Q. And you were worried about that and you went
21 to the Mayor, didn't you?

22 A. I don't remember if I went to the Mayor or
23 not. She was acting Director of Finance.

24 Q. And it was over giving a new budget director
25 a hard time, or something like that -- cooperation.

1 Do you even know?

2 A. I don't remember.

3 Q. Did you ever complain of bullying or
4 harassment of yourself against the commissioner?

5 A. Against a commissioner?

6 Q. Yes --

7 A. I don't remember it.

8 Q. -- Commissioner Mead for allegedly not
9 treating you with proper respect at a County
10 Commission meeting?

11 A. I don't remember that, no. I mean, I'm not
12 denying it. I just don't remember it.

13 Q. You don't remember making a complaint against
14 Commissioner Mead?

15 A. No, sir. Do you have that complaint so I can
16 see it?

17 Q. My understanding is it was verbal.

18 A. Verbal?

19 Q. Yeah.

20 A. Oh, I don't remember.

21 Q. You went on and on about the Mayor's
22 allegedly higher political aspirations. You don't
23 know that, do you?

24 A. She told me.

25 Q. She told you? She's still the Mayor of

1 Anderson County. Are you aware of any petition or
2 anything that she's done to get higher office,
3 campaign for it, talk to other people about it,
4 anything like that?

5 A. No, sir, other than what she told me.

6 Q. Now, Mr. Stanley, when he asked you if the
7 Mayor -- about opting out, I'll submit to you that
8 she did say that they could opt out, but they had to
9 file their policies in the County Clerk's Office.

10 Is that your understanding?

11 A. They would have sent her policy to the Human
12 Resource Department.

13 Q. Okay.

14 A. Like, the Sheriff's Department had their own.

15 Q. Okay. So when they did -- they sent it to
16 the Human Resources Department, but Mr. Jones never
17 did?

18 A. No, sir.

19 Q. Now, you live in Lenoir City, Loudon County?

20 A. Yes, sir.

21 Q. Now, in 2018, you supported the Mayor's
22 opponent in the election, correct?

23 A. I did.

24 Q. Do you recall in February when you were
25 talking about a TBI investigation, the Mayor trying

1 to find out who was the TBI agent conducting the
2 investigation?

3 A. Yes, I do.

4 Q. And you didn't know?

5 A. I didn't remember his name. I had his name
6 listed as something different in my phone when he
7 called. I don't remember his name.

8 Q. Did he -- well, the Mayor called you?

9 A. I'm sorry?

10 Q. The Mayor called you.

11 Did you ever call her back when she found
12 out his name?

13 A. I don't remember that, no.

14 Q. Have you ever even seen a TBI report?

15 A. No, sir.

16 Q. And this concerned Mr. Jones' tanning
17 business, correct?

18 A. Yes, sir.

19 Q. Nothing to do with government or anything
20 like that?

21 A. (Shaking head negatively.)

22 Q. So, other than the Brown -- did you say that
23 you had discussed Ms. Lucas' complaints about
24 Mr. Jones while she was there working with you in
25 the Human Resources Department?

1 A. Gosh, that was early in 2015. I don't
2 remember any harassment, other than she was moved
3 because of bad treatment, but I don't know the
4 specifics of it.

5 Q. With Ms. Lucas?

6 A. With Ms. Lucas, yes.

7 Q. Now, then you have Angela Brown who worked
8 there for two days and you closed the file, correct?

9 A. I could not get back in touch with her.

10 Q. And until Gail Harness showed up again, no
11 one else showed up to complain about sexual
12 harassment?

13 A. No, sir.

14 Q. In Jones' department or any other department?

15 A. No, sir.

16 MR. KNIGHT: That's all, Your Honor.

17 THE COURT: Redirect.

18 MR. STANLEY: Just briefly.

19
20 REDIRECT EXAMINATION

21 QUESTIONS BY MS. STANLEY:

22 Q. Ms. Brown call you back -- Angela Brown call
23 you back?

24 A. I don't believe so, no, sir.

25 Q. We did get in touch with her. Would you be

1 surprised that she has not been able to sleep or eat
2 since --

3 MR. KNIGHT: Objection.

4 THE COURT: Sustained.

5 BY MR. STANLEY:

6 Q. He asked you about the TBI investigation, did
7 you ever see a report. How serious was it? I mean,
8 did they ask you --

9 MR. KNIGHT: Objection.

10 THE COURT: Sustained.

11 MR. KNIGHT: Objection.

12 THE COURT: Sustained.

13 BY MR. STANLEY:

14 Q. Counsel said that you don't trust the Mayor,
15 and that's why you went around to Jay Yeager,
16 correct?

17 A. That's why I went around Jay Yeager or to Jay
18 Yeager?

19 Q. I'm sorry. Around her to Jay Yeager.

20 A. I don't know if it was a trust factor or just
21 she didn't care.

22 Q. Now, when you asked her to sign, what was
23 it -- you asked her to sign something?

24 A. It was a posting that the Governor had put
25 out for bullying.

1 Q. And she did sign it?

2 A. She did not.

3 Q. But she told her counsel she signed it.

4 A. No, I don't think there's anything with her
5 signature on it posted on any board, because she
6 refused to sign it.

7 Q. Okay.

8 A. But she didn't want to sign it.

9 Q. That would be a false statement by her
10 lawyer?

11 A. Yes, sir.

12 MR. STANLEY: No further questions.

13 MR. KNIGHT: She never even said that,
14 Your Honor.

15 THE COURT: Thank you, sir. You may
16 step down.

17 (Witness excused.)

18 THE COURT: It's about 10:30 now. We'll
19 take our morning recess. We will be back in 10
20 minutes until the hour. 10 minutes until the hour.

21 (WHEREUPON, the jury was excused for a
22 break.)

23 (Short break.)

24 (WHEREUPON, the following matters were
25 heard in open court outside the presence of the

1 jury, as follows:)

2 THE COURT: I understand something has
3 transpired with the Plaintiff?

4 MR. STANLEY: Yes, Your Honor. While we
5 were on break, Ms. Harness was outside and she
6 was -- Russell Bearden was walking out, and she was
7 at the bottom of the steps outside, and Russell
8 Bearden's still here. She said that she turned and
9 saw William Jones, and said, "Can you please walk
10 with me?" So Russell Bearden and her went to walk.
11 And then she just collapsed. And collapsed kind of
12 on the concrete yard area in the front of the
13 courthouse. And so, an ambulance was called.

14 But what's the latest, as far as her
15 being able to --

16 UNIDENTIFIED SPEAKER: She's doing okay.
17 We're seeing if maybe we can get lunch
18 (inaudible) --

19 MR. STANLEY: She was going to be our
20 next witness. Is the ambulance still here?

21 UNIDENTIFIED SPEAKER: The ambulance has
22 left.

23 MR. STANLEY: The ambulance has left. I
24 guess we'll just -- maybe we need a little more time
25 or maybe we can take a break. I'm just getting this

1 the same time you are, Your Honor.

2 THE COURT: It's almost 11:00. You want
3 to take our lunch break and have a longer lunch
4 break?

5 MR. KNIGHT: That would be fine.

6 MS. BURCHETTE: We have no objection to
7 that, Your Honor.

8 THE COURT: And come back at 1:00?

9 MR. STANLEY: I think that would be a
10 great idea. Yes, Your Honor.

11 THE COURT: Let's bring the jury in. I
12 won't say anything about Ms. Bailey or Ms. Harness
13 to the jury. Let's bring the jury in.

14 (WHEREUPON, the jury re-entered the
15 courtroom, with matters being heard in open court,
16 as follows:)

17 THE COURT: Ladies and gentlemen, we're
18 going to take a little bit earlier lunch than we
19 normally do, and also a little bit longer lunch than
20 we normally do. It's just about 11:00 now. We're
21 going to go to lunch now and we will resume at 1:00.
22 We're still on track for the Plaintiff to finish
23 their case. It won't be this morning, though, but
24 it should be early this afternoon.

25 While you're away from court, do not

1 discuss this case with anyone. Do not allow anyone
2 to discuss this case with you. If you decide to go
3 to lunch together, then don't discuss the case.
4 Find something else to talk about. You can talk
5 about the fine summer weather we're having, even
6 though we're having some rain. You can talk about
7 the exciting election in New York City that's going
8 on today, or the prospects for the Tennessee laws
9 for this fall, but don't talk about the case.

10 When you come back, we'll have you
11 brought back in, and then we'll hear our next
12 witness. Okay?

13 Anything further?

14 MR. COLLINS: No Your Honor.

15 THE COURT: Mrs. Lewis.

16 (Short break.)

17 (WHEREUPON, the following matters were
18 heard in open court outside the presence of the
19 jury, as follows:)

20 THE COURT: I see Ms. Harness is back in
21 court. And Ms. Harness, I hope that you're doing
22 okay. And whatever it was that you experienced,
23 you're up and you're doing well.

24 Did counsel want to see the Court before
25 we start?

1 MS. BURCHETTE: We have a brief matter,
2 Your Honor.

3 We would move to exclude any testimony
4 regarding what happened that led to this extended
5 break today coming in either through Ms. Harness or
6 through Dr. Surdock, because it's highly prejudicial
7 and it's not relevant to this case as it stands
8 today.

9 MS. BAILEY: It is exactly what we're
10 here about today, Your Honor. It's very relevant.
11 It shows her reaction to him and her PTSD.

12 THE COURT: Are you saying that she
13 fainted or she collapsed because of Mr. --

14 MS. BAILEY: Jones.

15 THE COURT: -- Jones?

16 MS. BAILEY: Yes, one hundred percent.

17 THE COURT: Why? How could that be?

18 MS. BAILEY: This isn't the first time
19 it's happened.

20 THE COURT: Whenever she sees him, she
21 collapses?

22 MS. BAILEY: She has a panic attack.

23 THE COURT: Well, that wasn't the
24 question. Whenever she sees him, she collapses?

25 MS. BAILEY: Yes. Whenever she sees

1 him, she collapses.

2 THE COURT: I'm having some difficulty
3 understanding. Unless she's extremely peculiar,
4 that does not seem like a normal reaction to even
5 someone who has experienced the horrors of war.

6 MS. BAILEY: But it's the reaction she
7 has, Your Honor, and her doctor can testify to that.

8 THE COURT: Well, why do we need to
9 bring it out today, then?

10 If she's collapsed before, why doesn't
11 the doctor talk about that, that she's collapsed two
12 months ago, six months ago?

13 Why do we need to bring it out that she
14 collapsed on June 22, 2021 at 11:00?

15 MS. BAILEY: It shows that her PTSD is
16 continuing until today.

17 THE COURT: Is anybody disputing that?
18 Is that in dispute?

19 MS. BAILEY: I don't know if it's in
20 dispute, but we have to prove it. It's our case.

21 THE COURT: I think someone said -- I'm
22 not sure who said it. It may have been counsel in
23 opening statements that there's no cure for PTSD,
24 but there's treatment for it. But it stays with you
25 pretty much forever.

1 Did someone say that?

2 MS. BAILEY: Yes, Your Honor.

3 THE COURT: Is anyone going to
4 contradict that?

5 MS. BAILEY: I don't know that, Your
6 Honor. But it's an example --

7 THE COURT: Well, until someone
8 contradicts it, the Court is not going to permit any
9 testimony about what the Plaintiff underwent today.
10 I think it's fair game for her psychologist to talk
11 about what she's told the psychologist and what the
12 psychologist has observed, and also what the
13 Plaintiff has observed.

14 MS. BAILEY: Your Honor, I don't -- can
15 I have one moment, because I'm not sure of
16 something?

17 (An off-the-record discussion was
18 held.)

19 MR. COLLINS: She's still currently
20 seeing her. That was a misstatement.

21 MS. BURCHETTE: She's seeing her.

22 MR. COLLINS: She's going back to her,
23 yes. And, furthermore, Dr. Surdock was down here
24 when this incident happened where she saw William
25 Jones, and then she had this syncope. And

1 Dr. Surdock will testify that that is exactly the
2 type of symptoms that you get, marked physiological
3 reaction to an internal or external cue. It's right
4 out of the DSM-5. So, I mean, I think it's
5 important -- I mean, it goes to the severity of her
6 injury. It goes to damages.

7 THE COURT: The Court will not allow it.

8 MS. BAILEY: Thank you, Your Honor.

9 THE COURT: Are we ready for the jury?

10 MR. STANLEY: Yes, Your Honor.

11 (WHEREUPON, the jury re-entered the
12 courtroom, with matters being heard in open court,
13 as follows:)

14 THE COURT: Please call your next
15 witness.

16 MS. BAILEY: Plaintiff calls Gail
17 Harness.

18 (WHEREUPON, the witness was sworn in by
19 the Court Clerk.)

20
21 * * *

22 **GAIL HARNESS,**
23 was called as a witness, and after having been duly
24 sworn, testified as follows:

25 //

DIRECT EXAMINATION

QUESTIONS BY MS. BAILEY:

Q. Please introduce yourself to the jury.

A. My name is Edwina Gail Harness.

Q. Are you presently married?

A. No.

Q. Do you have any children?

A. Yes.

Q. What are their names and ages?

A. Marisha, Jasmine and Madison. They're 6, 15
and 17.

Q. And are these your natural children?

A. Two of them are. One I have custody of.

Q. How long have you had custody of that
particular --

A. Since she was 12. So, five years, almost
six.

Q. Give me your educational background, starting
with high school.

A. I went to Scott High School in Huntsville
where I got my GED. Then, I went to Roane State
Community College and got an Associates of Science
in Education. And then, Tennessee Tech in
Cookeville for a Bachelor's in Interdisciplinary
Studies.

1 Q. So, in furtherance of your education after
2 you got your GED, you went back to school?

3 A. Yes, ma'am.

4 Q. Why did you go back to school?

5 A. To make a better life for me and my kids.

6 Q. Now, you told us -- what was your degree in?

7 I'm sorry.

8 A. Interdisciplinary Studies.

9 Q. One of the requirements for your degree was
10 an internship; is that correct?

11 A. Yes, ma'am.

12 Q. Did you do an internship?

13 A. I did.

14 Q. Where did you do that?

15 A. At the Clerk's Office in Anderson County.

16 Q. Tell me how it came about that you got an
17 internship at the Clerk's Office.

18 A. I was working at a daycare, and one of my
19 student's mother worked there, and I had been
20 speaking with her about needing one, so she
21 connected me.

22 Q. If you're uncomfortable, you can remove your
23 mask.

24 How long was this internship supposed to be?

25 A. From the end of January, first of February

1 until May.

2 Q. Who did you interview with?

3 A. William Jones.

4 Q. How was that interview?

5 A. It was -- it was different.

6 Q. Different in what way?

7 A. He just asked some offbeat questions like if
8 I was married; who I voted for; my political stance.

9 Q. And who was it that introduced you to this
10 Clerk's Office?

11 A. Tracy Spitzer.

12 Q. Tracy Spitzer.

13 Were you offered the job?

14 A. Yes.

15 Q. How did you feel when you were offered this
16 job?

17 A. Well, I was excited, because I needed it
18 (crying).

19 Q. Did you ask Tracy a lot of questions about
20 the Clerk's Office?

21 A. I did.

22 Q. What kind of questions?

23 A. Just what it entails, what they do on a daily
24 basis, just questions regarding the job.

25 Q. Did you ask about wardrobe?

1 A. Yes, I asked about the dress code.

2 Q. What did she tell you?

3 A. That William preferred certain things, and I
4 was used to dressing in scrubs.

5 Q. He preferred certain things like what?

6 A. Just, like, more like dresses and kind of low
7 cut, and just professional, but revealing, I guess.

8 Q. How did you feel about that?

9 A. I just took it as, you know, you got to dress
10 professional. I didn't really think anything about
11 it.

12 Q. Tell me about your first day when you got to
13 the Clerk's Office or when you got to the building
14 of the Clerk's Office?

15 A. On the day that I arrived, I texted William
16 and asked him if I park on top or if I park on the
17 bottom, 'cause there's like a top level and then the
18 bottom parking lot, and he responded back with, "I
19 prefer you on top."

20 And then, I went to his office, he kind of
21 took me around to the other offices to show me
22 around and to introduce me. And then, he took me
23 to juvenile court.

24 Q. Is that where you were stationed, in juvenile
25 court?

1 A. Yes.

2 Q. On your first day, were you trained on your
3 job?

4 A. No.

5 Q. Were you given an employee handbook?

6 A. No.

7 Q. Were you told how to report sexual
8 harassment?

9 A. No.

10 Q. Who was your immediate supervisor?

11 A. William Jones.

12 Q. So, anything that happened, that happened to
13 you, you were to report to him?

14 A. Yes.

15 Q. And that's all you know?

16 A. Yes.

17 Q. Were there other clerks that worked with you?

18 A. Yes.

19 Q. Let me go back.

20 So, William Jones hired you. Did he have
21 the authority to fire you?

22 A. Yes.

23 Q. Did he hire anybody that worked at the
24 Clerk's Office?

25 A. Yes.

1 Q. Did he have the authority to fire anyone that
2 worked at the Clerk's office?

3 A. Yes.

4 Q. Did he develop the procedures for the Clerk's
5 Office?

6 A. Yes.

7 Q. Did he make the policies for the Clerk's
8 Office?

9 A. Yes.

10 Q. Were they always in line with the other
11 Anderson County policies?

12 A. I'm not sure, 'cause I never received anybody
13 else's policies.

14 Q. Who were the other clerks that worked with
15 you?

16 A. Valerie Walker, Tracy Spitzer, and
17 Dawn Queener.

18 Q. Was this a paid position?

19 A. Not at first.

20 Q. Did it become a paid position?

21 A. Yes.

22 Q. What were your duties as an intern?

23 A. I started with filing and just really
24 anything they needed help with.

25 Q. And you said at sometime it became a paid

1 position. When did that happen?

2 A. I believe at the -- closer to the end of
3 February.

4 Q. So, at that point, are you still considered
5 an intern or are you a part-time employee?

6 A. Yes, I was still an intern.

7 Q. But you were working part-time?

8 A. Yes.

9 Q. We talked about Mr. Jones making the policy.
10 Did his policies ever conflict with judge's orders?

11 A. Yes.

12 Q. What happened in cases when his policy, or
13 what he wanted you to do, conflicted with what a
14 judge told you to do?

15 A. He would just get angry.

16 Q. What did he do when he was angry?

17 A. He would yell at you in front of other people
18 and he would demean you, put you down. He would
19 write you up.

20 Q. When you first started working with him, how
21 was your interaction with him?

22 A. It was a little too friendly.

23 Q. What do you mean by "too friendly"?

24 A. He was just really flirtatious, I guess, at
25 first; very --

1 Q. I'm sorry. Go ahead.

2 A. Very personal, just in your business, kind
3 of.

4 Q. Was it just you or was it other people in the
5 Clerk's Office?

6 MS. BURCHETTE: Objection, Your Honor.
7 It's not relevant what other people in the
8 office -- what his interactions with other people in
9 the office are. It's a single claim as to
10 Ms. Harness.

11 THE COURT: Ms. Bailey?

12 MS. BAILEY: It's harassment; hostile
13 work environment; policy and procedure; custom and
14 policy; all goes to that.

15 THE COURT: Sustained.

16 BY MS. BAILEY:

17 Q. Did you ever -- or did he ever communicate
18 with you outside of the office?

19 A. Yes.

20 Q. How did he communicate with you?

21 A. It started with text messages.

22 Q. What kind of text messages?

23 A. Through the phone. It would just be, what
24 are you doing, where are you at, kind of things like
25 that.

1 Q. Did you find it odd?
2 A. I did.
3 Q. Did you reply?
4 A. Yes.
5 Q. Why did you reply?
6 A. He was my boss.
7 Q. What did you think would happen if you didn't
8 reply?
9 A. Obviously, I'd be on his bad side. I could
10 be fired, lose my internship, anything.
11 Q. And if you lost your internship, what would
12 happen?
13 A. I wouldn't graduate.
14 Q. And at the time, what was the status of your
15 marriage?
16 A. It was rocky. Me and my husband were pretty
17 much separated, but we was living together trying to
18 work things out.
19 Q. Did Mr. Jones know about that?
20 A. Yes.
21 Q. You said it started with text messages. Did
22 it progress to something else after the text
23 messages?
24 A. Yes.
25 Q. To what?

1 A. To Snapchat.

2 Q. What kind of things were you Snapchatting
3 about?

4 A. It would be anything throughout the day,
5 like, "how are you doing; where are you at; how's
6 work." He would send pictures of himself; pictures
7 of his socks every morning, just ...

8 Q. So he Snapchatted you almost every morning?

9 A. Yes.

10 Q. What kind of things would he say in the
11 morning?

12 A. Just, "good morning, beautiful," or, "I hope
13 you're ready for the day; I'll see you later,"
14 just ...

15 Q. Did they eventually become more sexual?

16 A. Yes.

17 Q. When did that happen when they started
18 becoming sexual?

19 A. It started pretty soon into February, March.

20 Q. What kind of things was he Snapchatting you?

21 A. He would make anything sexual. It's hard to
22 even give examples. You could say that you're
23 running late and he would have something sexual to
24 say for anything.

25 Q. When he did that, how would you respond?

1 A. I would either respond back enough to where I
2 would keep him happy or I'd completely change the
3 subject.

4 Q. Why were you trying to keep him happy?

5 A. Because he was my boss and I needed that job
6 in the internship.

7 Q. What made you think you would lose your job
8 if you didn't respond?

9 A. It was well-known we would lose our job. We
10 had to please William.

11 Q. What did William call himself?

12 A. "Daddy".

13 Q. And did he make the clerk's refer to him that
14 way?

15 A. Yes, that was what he preferred.

16 Q. And what did he call his wife?

17 A. "Mama".

18 Q. And that's the way he referred to her to you?

19 A. Yes.

20 Q. Did William ever ask you to work at another
21 business that he owned?

22 A. Yeah.

23 MS. BURCHETTE: Objection as to
24 relevance. This is outside of the employment at the
25 Clerk's Office.

1 THE COURT: Ms. Bailey?

2 MS. BAILEY: Your Honor, it goes to his
3 treatment of her. It's outside of the scope of the
4 Clerk's Office, but it ties into the sexual
5 harassment.

6 THE COURT: And the statement you're
7 trying to elicit from her, was it made while he was
8 in the Clerk's Office?

9 MS. BAILEY: I'm sorry, Your Honor, I
10 didn't understand you.

11 THE COURT: You're trying to elicit from
12 the witness a statement made by Mr. --

13 MS. BAILEY: Jones.

14 THE COURT: -- Jones. Was this a
15 statement that he made while he was at the Clerk's
16 Office?

17 MS. BAILEY: It was in the scope -- it
18 was while he was at the Clerk's Office.

19 THE COURT: Overruled.

20 BY MS. BAILEY:

21 Q. What did he tell you he wanted you to do?

22 A. He wanted me to come and work at his tanning
23 salon that they owned.

24 Q. Why was that?

25 A. He said so it would give us alone time.

1 Q. Did you take him up on his offer?
2 A. No.
3 Q. Who were you supposed to work with at the
4 tanning salon?
5 A. His wife.
6 Q. Which he referred to as what?
7 A. Mama.
8 Q. Was there an occasion where you and your
9 husband ran into William outside of work?
10 A. Yes.
11 Q. Tell me about that.
12 A. We ran into him at Sam's Club in Knoxville.
13 That's when they were kind of introduced. And then,
14 again at the July 4th festival in Lake City.
15 Q. What's the July 4th festival?
16 A. It's like a -- just a 4th of July celebration
17 kind of thing.
18 Q. Was that something you did often, go to the
19 July 4th festival?
20 A. Yes.
21 Q. Is that something you do now?
22 A. No.
23 Q. Why not?
24 A. 'Cause I don't go anywhere if I think I'm
25 going to see him.

1 Q. So, has that limited your activities in life?

2 A. Yes.

3 Q. How?

4 A. Because anywhere I think he's going to be, I
5 don't go. I -- I don't talk to certain people
6 because -- we don't do certain activities.

7 Q. And when you say, "We," who are you talking
8 about?

9 A. Me and my kids.

10 Q. So, that's not only impacted your life, it
11 affected their lives as well?

12 A. Yes.

13 Q. How else did it effect your kids' lives?

14 MS. BURCHETTE: Objection.

15 THE WITNESS: Well, for one --

16 MS. BURCHETTE: Because they're not
17 parties to this action, Your Honor.

18 MS. BAILEY: Your Honor, we're talking
19 about a mother. Anything that affects her kids
20 affects her.

21 THE COURT: And your question is what?

22 MS. BAILEY: I said, is there anything
23 that affects her kids --

24 THE COURT: I understand that was your
25 answer to me. That was not a question.

1 What was your question?

2 MS. BAILEY: My question is: How did it
3 affect your kids' lives?

4 THE COURT: Sustained.

5 BY MS. BAILEY:

6 Q. Did your kids ever come home and tell you
7 something that was said to them?

8 MS. BURCHETTE: Objection, again, Your
9 Honor.

10 MS. BAILEY: Your Honor, this is very
11 relevant. If I can have some leeway.

12 THE COURT: And why is it relevant?

13 MS. BAILEY: Because her kids are --
14 compared to what she's got going on now.

15 THE COURT: And why is that relevant?

16 MS. BAILEY: Because it affected her
17 reputation in the community.

18 THE COURT: Why is that relevant?

19 MS. BAILEY: It goes to her damages.

20 THE COURT: Well, I think what you want
21 to do is relevant. I think you're trying to elicit
22 hearsay, though, aren't you? Not only is it hearsay
23 and maybe double hearsay if you're asking her what
24 did the children tell you, what did other people
25 tell them. So, none of the children are here in

1 court.

2 MS. BAILEY: It goes to the effect on
3 the listener.

4 THE COURT: So, we can not tell their
5 credibility. And this is based upon what somebody
6 else said to them, who also are not here in the
7 courtroom. It's double hearsay.

8 MS. BAILEY: It doesn't matter. If it's
9 true, it goes to the effect on her.

10 THE COURT: For damages?

11 MS. BAILEY: The effect --

12 THE COURT: You want to ask this jury to
13 award damages based upon out-of-court statements
14 from people they've never seen, they've never heard
15 of? They have no way of knowing whether what
16 they're saying is a joke or not, whether it's true
17 or not.

18 Because of the effect it had on her?

19 MS. BAILEY: Yes, Your Honor.

20 THE COURT: Is that appropriate to award
21 damages based on that?

22 MS. BAILEY: I think it is, Your Honor.

23 THE COURT: Sustained.

24 (WHEREUPON, a document was marked as
25 Exhibit Number 33.)

1 BY MS. BAILEY:

2 Q. I want to bring up Exhibit 33.

3 THE CLERK: On the --

4 MR. STANLEY: It's the HDMI.

5 THE CLERK: It's there. There's just a
6 delay. Is it hooked up?

7 MR. COLLINS: It is in. I can try
8 again. Oh, yeah, I think I got it.

9 BY MS. BAILEY:

10 Q. Do you recognize these?

11 A. Yes.

12 Q. What is this?

13 A. It's Snap messages between me and William.

14 Q. Now, this in the corner, "Jones 37," do you
15 know what that means?

16 A. That means that he provided these.

17 Q. And is there anything else in this that tells
18 you that he provided these?

19 A. Because it says, "Gail and me."

20 Q. So, you would be Gail, and he would be me?

21 A. Yes.

22 Q. Can we look at Jones 37, please? Go up,
23 please. Can you read that first -- well, that chat
24 from you, what that says?

25 A. "I'm a little confused. So if I missed with

1 the kids' doctor's appointments, hours in a day, I
2 can't make up them days. I'm part-time. I was just
3 under the impression as long as I didn't get over
4 29.5. I'm just wondering. I don't need to speak
5 with Angela. I was just making sure I understood
6 correctly."

7 Q. And why were you asking him about this?

8 A. 'Cause I had missed some time and was trying
9 to make up the time.

10 Q. Why did you miss time?

11 A. To take my kids -- well, my daughter to a
12 doctor's appointment.

13 Q. Now, when you first started on your first day
14 as a part-time employee, were you told how to
15 request time off?

16 A. No.

17 Q. Were you told you have to work a certain
18 schedule?

19 A. No.

20 Q. Were you told that you only had to work 29
21 hours and that's it?

22 A. As long as I didn't go over that, yes.

23 Q. It didn't matter when?

24 A. Yes.

25 Q. Okay. So, you're wanting to make up the

1 time. And this is a conversation you and I -- I
2 mean, you and Mr. Jones had about your time,
3 correct?

4 A. Yes.

5 Q. And this was all business?

6 A. Yes.

7 Q. And this is just you trying to get your
8 schedule, right?

9 A. Yes.

10 Q. So that you can make as much money as
11 possible?

12 A. Yes.

13 Q. What was his response?

14 A. It -- he wanted a picture.

15 Q. So, you're asking about your job, and he
16 responded with, "I want a picture?"

17 A. Yes.

18 Q. Is this what he sent you?

19 A. Yes.

20 Q. What was your response?

21 A. I sent him a picture.

22 Q. Why did you do that?

23 A. Because I had to. Because I couldn't lose my
24 job (crying). I couldn't lose the internship. I
25 had to supply for us somehow.

1 Q. When you say, "Us," who are you talking
2 about?

3 A. My kids and I.

4 Q. At this time were you the only source of
5 income for your kids?

6 A. For the most part. Like I said, me and my
7 husband were still kind of living together kind of
8 working it out, but we had separate accounts, so ...

9 Q. Did you make more money than him?

10 A. I wouldn't say I made more, no. But he
11 didn't make much either.

12 Q. Now, we see that he had some --

13 MS. BAILEY: I want to go to Jones 38,
14 please (talking to co-counsel).

15 MR. STANLEY: Jones what?

16 MS. BAILEY: 38. I'm sorry, 43, please.
17 Jones 43.

18 MR. STANLEY: 43?

19 MS. BAILEY: Yes. Okay.

20 (WHEREUPON, a document was marked as
21 Exhibit Number 43.)

22 BY MS. BAILEY:

23 Q. What is this Snapchat talking about?

24 A. We had to refer to him as "Daddy".

25 Q. So why --

1 A. So, it's talking about that.

2 Q. So, he's saying, "Tell them what's on my mind
3 and who they work for." That's him?

4 A. Yes.

5 Q. And who did they work for?

6 A. For "Daddy", for William.

7 Q. And who did he tell you you worked for?

8 A. I'm sorry?

9 Q. Who did he tell you you worked for?

10 MS. BURCHETTE: Objection, that's not
11 what this Snapchat says. That's her response, but
12 that question is leading and improper.

13 THE COURT: Ms. Bailey.

14 MS. BAILEY: I'm talking in general,
15 Your Honor, I'm not referring to the Snapchat.
16 She -- we went off the Snapchat.

17 THE COURT: Okay. Overruled.

18 BY MS. BAILEY:

19 Q. Who did he tell you, you worked for?

20 A. For "Daddy".

21 MS. BAILEY: Jones 45, please. Let's
22 stop there.

23 MR. STANLEY: Oh, that's 47.

24 MS. BAILEY: I want 45 first, please.
25 Stop.

(WHEREUPON, a previously marked
document was shown as Exhibit Number 45.)

BY MS. BAILEY:

Q. Okay. This is another Snapchat between you
and Mr. Jones. It starts with him saying, "Hmm,
just hmm. Then that makes my mind wander down a bad
road."

Do you know what that's about, do you
recall?

A. I don't. I think it had something to do with
the "Daddy" thing though.

Q. We don't know if this is an unbroken chain or
not?

A. Correct.

Q. But then you go to, "Going to Bingo." Why
did you say that?

A. Just to change the subject.

Q. Is that how you tried to respond --

A. Yes.

Q. -- often?

A. Often, yes.

MS. BAILEY: Jones 48, please.

(WHEREUPON, a document was marked as
Exhibit Number 48.)

///

1 BY MS. BAILEY:

2 Q. Again, this is you talking to him about
3 getting a job?

4 A. Yes.

5 Q. What kind of job were you looking for?

6 A. To be full-time in the Clerk's Office?

7 Q. Was it your intent to stay at the Clerk's
8 Office when you originally went there?

9 A. Not when I originally went there.

10 Q. Was it ever your intent to stay there?

11 A. I did like the job, yes.

12 Q. But -- I heard a but after that. I like the
13 job, but ...

14 A. I mean, I wouldn't want to work under him,
15 like, as a career.

16 Q. Okay. This is Jones 48, him saying -- well,
17 will you read that, please.

18 A. Which one?

19 Q. Him saying -- starting with "The last thing I
20 sent." If you don't think you can read it, I'll
21 read it.

22 A. It says, "The last thing I sent was grabbing
23 the back of your head, thrusting my (expletive) in
24 your throat. And since you don't gag, does that
25 mean I can (expletive) in the back of your mouth?

1 You need to go to the salon after work tomorrow.

2 Mama needs some help and that would give us alone
3 time sometimes."

4 Q. This sounds like it was in response to
5 something. Do you recall what that was?

6 A. He had sent it and I had went off, and I
7 asked him to send it again.

8 Q. Why did you ask him to send it again?

9 A. 'Cause at the time I took a picture of it
10 with a co-worker's phone, and then sent it to my
11 phone.

12 Q. Now, why would you take a picture with a
13 co-worker's phone, isn't this something you can save
14 yourself?

15 A. Yes, it is.

16 Q. I don't really know how Snapchat works. Can
17 you explain to me how that works.

18 A. You can save the messages that come through,
19 and it notifies, obviously, the other person. And
20 then, pictures just disappear unless you screenshot
21 them.

22 Q. So, why did you feel it necessary to save it
23 to somebody else's phone versus just saving it to
24 your phone?

25 A. Because when I would try to save messages, he

1 said -- he would yell at me and tell me to delete
2 them, and I wasn't suppose to save anything.

3 Q. On Jones 49, here we have you asking for a
4 job again. "What's Dawn's job?"

5 A. Dawn was the delinquent in juvenile court.

6 Q. Was her job full-time or part-time?

7 A. Full-time.

8 Q. And you're asking him for a job?

9 A. Yes.

10 Q. Okay. What -- how did he respond?

11 A. He always just kind of beat around the bush
12 or would respond sexual or -- 'cause I asked him
13 several times.

14 Q. So, every time you would ask him for a job,
15 he would respond with something sexual?

16 A. Yes.

17 MS. BAILEY: Jones 52, please.

18 (WHEREUPON, a document was marked as
19 Exhibit Number 52.)

20 BY MS. BAILEY:

21 Q. Can you tell me what this conversation is
22 about?

23 A. It's talking about me being sore. My husband
24 at the time metal detected, so I was in charge of
25 burying all of the silver in the ground.

1 Q. And you told him about that?

2 A. Yes.

3 Q. Saying there's a lot of up and down and
4 ground to cover?

5 A. Yes.

6 Q. And how did he respond?

7 A. With a sexual comment.

8 Q. And when you said, "There's a lot of up and
9 down and ground to cover," were you saying that in a
10 sexual way?

11 A. No.

12 MS. BAILEY: Can we page up a little
13 bit? I'm sorry, page down.

14 BY MS. BAILEY:

15 Q. And this is an unbroken chain, right?

16 A. This part, yes.

17 Q. Okay. And then he comes in with something
18 else?

19 A. Yes.

20 Q. About garter belts, corsets and stockings.
21 Stockings, I'm sure he meant.

22 A. Yeah.

23 Q. So, we're looking at more Snapchat messages
24 at -- so, this is actually the same conversation we
25 looked at a little bit -- or is it the same

1 conversation about helping mama at the tanning
2 salon?

3 MS. BURCHETTE: Objection, Your Honor,
4 to speculation. They're not dated.

5 MS. BAILEY: I'm asking. She would know
6 if she had the conversation.

7 MS. BURCHETTE: Still say it calls for
8 speculation if these messages are not dated.

9 THE COURT: And your question was, what
10 was the date of this particular message?

11 MS. BAILEY: No. I said, is this the
12 same conversation or is this a different
13 conversation?

14 THE COURT: Overruled.

15 THE WITNESS: I can't answer, honestly.
16 I'm not sure.

17 BY MS. BAILEY:

18 Q. Okay. But these text messages or these
19 Snapchat screen graphs look different than the ones
20 we looked at before?

21 A. Yes.

22 Q. And these are different because "Me" is now
23 you, and "William" is Mr. Jones?

24 A. Correct.

25 Q. So, these are the ones you've provided?

1 A. Yes.

2 Q. Okay. At the bottom of this text message,
3 you start with "Enough of this Purple Rain and I
4 may." What does that mean?

5 A. Me and my kids were out doing karaoke. And
6 purple rain is just a cocktail drink, and he's
7 talking about me singing.

8 Q. And when you told him about the Purple
9 Rain -- so you're saying, I had enough of these
10 Purple Rains, I assume?

11 A. Yes.

12 Q. How did he respond?

13 A. Sexual.

14 Q. "I want to shoot in your mouth."

15 And you were out with your kids?

16 A. Yes.

17 Q. And you were telling him about them singing?

18 A. Yes.

19 Q. Tell me what this is about. You start
20 with "Sitting on the couch wrestling with my wild
21 child."

22 Now, this may be a broken chain, because the
23 date starts with him. So, when you Snapchat the
24 first Snapchat of the day, is that when the date
25 comes up?

1 A. I think it can -- that's normally when it
2 comes up. And I think if there's been like hours in
3 between, it'll also do that.

4 Q. So, by looking at this, we can tell he
5 initiated this conversation?

6 A. On this, yes.

7 Q. And how did he initiate this conversation?

8 A. Talking about a tall glass of me.

9 Q. And according to this, there was no previous
10 conversation, at least not in that realm?

11 A. Not on that one that's saved, no.

12 MS. BAILEY: If I've not moved 33 into
13 evidence, Your Honor, I'd like to move it in now.

14 THE COURT: Without objection, it's
15 admitted.

16 MS. BURCHETTE: No objection, Your
17 Honor.

18 (WHEREUPON, a previously marked
19 document was shown as Exhibit Number 33.)

20 BY MS. BAILEY:

21 Q. Did he ever ask you to meet with him and his
22 wife?

23 A. Yes.

24 Q. In what respect?

25 A. He had asked me to have sex with him and his

1 wife.

2 Q. How did you respond to that?

3 A. I told him that I didn't think his wife would
4 be too happy with him speaking like that.

5 Q. And what did he say?

6 A. That she wouldn't mind.

7 Q. Now, we've gone through some Snapchats. Some
8 provided by him; some provided by you. And I think
9 you told me that they go away after a certain amount
10 of time.

11 A. If you don't save them, they go away.

12 Q. So, were there other Snapchats that we've not
13 seen?

14 A. Yeah.

15 Q. That have not been provided by him or
16 provided by you?

17 A. Yes.

18 Q. How long did the Snapchatting go on?

19 A. Up until maybe May, June.

20 Q. Were you -- were they still mostly sexual?

21 A. Yes.

22 Q. Did your husband know about it?

23 A. He knew about the Snapchatting, but he did
24 not know, like, the extent of it.

25 Q. Did he ever learn the extent of it?

1 A. Eventually, yes.

2 Q. How did he learn it?

3 A. He learned the complete extent whenever I
4 made my complaint.

5 Q. But he was involved in a lot of this at that
6 time, right?

7 A. Yes.

8 Q. How was he involved?

9 A. Well, can you rephrase the question?

10 Q. Your husband was meeting with people in --

11 A. Yes.

12 Q. Tell me about that.

13 A. He was upset that I wasn't getting a
14 full-time job. He didn't understand why.

15 MS. BURCHETTE: Objection, Your Honor.
16 How does this go to a hostile work environment?

17 THE COURT: Ms. Bailey?

18 MS. BAILEY: Your Honor, we've had
19 testimony in this from the Mayor, from Russell
20 Bearden about Mr. Harness speaking on Mrs. Harness'
21 behalf. And ...

22 Okay, I'll withdraw the question.
23 Nevermind.

24 BY MS. BAILEY:

25 Q. Who did your checks come from?

1 A. Anderson County.

2 Q. Not the Clerk's Office?

3 A. No.

4 Q. There was sometime you did get a full-time
5 job?

6 A. Yes.

7 Q. Where -- were you still at the Clerk's
8 Office?

9 A. Yes.

10 Q. When was that?

11 A. August, I believe.

12 Q. And how long did you stay full-time?

13 A. From August until August or September the
14 next year.

15 Q. Okay. Where were you working at this time?

16 A. In the juvenile court.

17 Q. And in August of '17, something happened.
18 You decided to make a complaint.

19 A. Yes.

20 Q. Who did you complain to?

21 A. Russell Bearden.

22 Q. What did you tell him?

23 A. I just told him vaguely, what, kind of, was
24 going on, how I felt uncomfortable, how the
25 atmosphere and the environment was.

1 Q. What was his response?

2 A. He said that he would investigate and that he
3 would help.

4 Q. Did he investigate?

5 A. As far as I know. I was told he did.

6 Q. Was there ever a time when Mr. Jones' wife
7 was in the office?

8 A. Yes.

9 Q. Tell me about that.

10 A. After I'd made the complaint, and the day
11 that I was supposed to go give my sworn statement,
12 William brought his wife into the office and sat her
13 beside me.

14 Q. Was she an employee?

15 A. No.

16 Q. What was she doing there?

17 A. As far as I know, she had no business there.
18 I think she was just there to intimidate.

19 Q. Did you eventually give the complaint?

20 A. I'm sorry?

21 Q. Did you eventually give your complaint?

22 A. Yes, I gave it in August. And then that same
23 day, gave my sworn statement.

24 Q. Now, at some point, you left the office all
25 together; is that right?

1 A. Yes.

2 Q. How is it that you came to leave the office
3 all together?

4 A. After my sworn statement, Russell walked me
5 over to the Care Clinic and I was put on FMLA.

6 Q. Whose idea was that?

7 A. Russell's.

8 Q. Why were you put on FMLA?

9 A. To get me out of the environment from --

10 Q. Who told you that?

11 A. Russell.

12 Q. Did you ask for it?

13 A. No.

14 Q. How long were you out on FMLA?

15 A. I think I came back in, like, March. So from
16 September to March.

17 Q. What job did you come back to?

18 A. I went to the Senior Center.

19 Q. What's the Senior Center?

20 A. It's just an office that holds, like,
21 seniors. They can go there and chill out during the
22 day.

23 Q. So, this is not the job you applied for?

24 A. No.

25 Q. So, how was it working at the Senior Center?

1 MS. BURCHETTE: Objection, Your Honor.
2 What does this have to do with a hostile work
3 environment?

4 THE COURT: Ms. Bailey?

5 MS. BAILEY: Your Honor, there was talk
6 at the Senior Center about what was going on with
7 her because it was an election year. This goes to
8 her damages.

9 THE COURT: State the question again.

10 MS. BAILEY: I said, "How was it working
11 at the Senior Center?"

12 THE COURT: Overruled.

13 THE WITNESS: It was very rough working
14 at the Senior Center. The seniors were very
15 friendly and they were nice for the most part. But
16 it was an election year, so everyone that was
17 running for office was coming in and out, including
18 William. People would come and they would sit, and
19 they was trying to talk to Sheree on why, you know,
20 they should vote for them. This was in the news at
21 the time and everywhere. They would sit beside
22 Sheree and start talking about me, not knowing at
23 the time that that's who I was. Just saying awful
24 things about the whole situation.

25 ///

1 BY MS. BAILEY:

2 Q. You said that William came in occasionally.

3 A. Yes.

4 Q. What happened when he would come in?

5 A. I would be sent out for either a long break,
6 long lunch.

7 Q. And how long were you there?

8 A. Until September.

9 Q. And then what happened in September?

10 A. I was fired in September.

11 MS. BURCHETTE: Objection, Your Honor.
12 That's been dismissed.

13 THE COURT: What's the objection?

14 MS. BURCHETTE: The claim has been
15 dismissed.

16 MS. BAILEY: I just asked why she left.
17 I didn't go into anything else.

18 THE COURT: Overruled.

19 BY MS. BAILEY:

20 Q. What happened in September?

21 A. I was fired.

22 Q. Okay. I want to talk about the harassment
23 retaliation and intimidation.

24 When did this inappropriate behavior start?

25 A. Shortly after I began working for him.

1 Q. And how long did it go on?
2 A. Until I left in September.
3 Q. When you gave your complaint to Russell
4 Bearden, did you do it at the courthouse?
5 A. No.
6 Q. Where did you do it?
7 A. I met him at Big Lots.
8 Q. Why did you meet him at Big Lots?
9 A. Because I didn't want to go to the courthouse
10 and do it.
11 Q. Why not?
12 A. Because I wanted it to stay anonymous.
13 Q. Did it stay anonymous?
14 A. No.
15 Q. Were you told it would stay anonymous?
16 A. Yes, I was told that it would be anonymous.
17 Q. When you found out that it was not going to
18 be anonymous, what did you do?
19 A. I panicked.
20 Q. Did you try to withdraw your complaint?
21 A. I did.
22 Q. What happened?
23 A. Kim told me that I had to be strong, and I
24 had to do it for my kids and to help other women.
25 Q. Is that why you continued on?

1 A. I'm sorry?

2 Q. Is that why you continued on?

3 A. Yes.

4 Q. Did you see yourself as a strong person or do
5 you see yourself as a strong person?

6 A. No.

7 Q. Why not?

8 A. Because I let him do the things -- I did
9 things that I normally would have never done and
10 shouldn't have done, but I was just -- I see myself
11 as very weak.

12 Q. But you persevered on with this lawsuit?

13 A. Yes.

14 Q. At the encouragement of Kim Whitaker?

15 A. Yes.

16 Q. Did you have any other conversations with
17 Russell Bearden?

18 A. Yes.

19 Q. About what?

20 A. I mean, we talked throughout the whole thing;
21 what was going on; what was happening.

22 Q. How many times would you say you had
23 conversations with him?

24 A. I couldn't count. There were several.

25 Q. After you gave your statement, did anything

1 change at the Clerk's Office?

2 A. No.

3 Q. Did anything change for you?

4 A. No.

5 Q. Did you talk to anyone else in Anderson
6 County government?

7 A. Jay Yeager.

8 Q. What did you have to say or what conversation
9 did you have with Jay Yeager?

10 A. Jay was just telling me that I was a
11 whistleblower, and that I was protected, not to
12 worry about anything. My job was going to be there;
13 everything was going to be fine.

14 Q. Did you believe that would be true?

15 A. Yes.

16 Q. Did it turn out to be true?

17 A. No.

18 Q. During the early period of your employment
19 while James was still in control of your education,
20 your career, your livelihood, did he have any
21 complaints about your job?

22 A. No.

23 Q. At some point he did have complaints about
24 your job.

25 A. Yes.

1 Q. When was that?

2 A. February, I think.

3 Q. February of?

4 A. '17.

5 Q. Okay. There was an instance when you were
6 written up in February of '17, incorrectly dated
7 February '16. Can you tell me what that
8 was -- well, first of all, who wrote you up?

9 A. I don't remember which one this one is.

10 Q. Okay.

11 A. If I could see it.

12 William.

13 Q. What did he write you up for?

14 A. He said it was for insubordination.

15 Q. And there are two instances on here. It
16 talks about the first infraction occurred two weeks
17 ago. Can you tell me about that?

18 A. I was in the courtroom doing court orders
19 while court was going on, and when I come back to my
20 desk, I had some citations laying on my keyboard.
21 So I picked them up and went to stamp file them.
22 And as I was doing that, he started yelling at me
23 telling me not to do that.

24 Q. Okay. Who had told you to do it?

25 A. The judge.

1 Q. And he said that you argued office procedures
2 with him.

3 A. Yes.

4 Q. Is that what happened?

5 A. No, there was no argument. I was just
6 explaining to him, well, the judge requires us to
7 stamp file them.

8 Q. And then, two weeks go -- he said nothing to
9 you at that time?

10 A. No.

11 Q. And he had the authority to fire you at that
12 time?

13 A. Yes.

14 Q. But then nothing happened. Two weeks go by
15 and he comes with the second infraction. And what
16 was that one?

17 A. Someone was being transferred and someone
18 with the Anderson County Sheriff's Office was asking
19 me about it, and I confirmed her questioning.

20 Q. So, this says you were spreading rumors
21 essentially.

22 A. Yes.

23 Q. So, is that what happened?

24 A. No. The rumor was already out. I wasn't
25 spreading anything.

1 Q. Just answer the question.

2 A. Yes.

3 MS. BAILEY: I'd like to move this into
4 the record, please.

5 MR. COLLINS: 23.

6 MS. BAILEY: Exhibit 23.

7 MS. BURCHETTE: No objection.

8 THE COURT: Without objection, it's
9 received.

10 (WHEREUPON, a document was marked as
11 Exhibit Number 23.)

12 BY MS. BAILEY:

13 Q. And then, there was another instance where
14 you were written up. Do you remember who wrote you
15 up that time?

16 A. Jessica.

17 Q. And this was six weeks or so later?

18 A. Yes.

19 Q. And again, before this you had no problems,
20 correct?

21 A. Correct.

22 MS. BAILEY: Can we go back to 23,
23 please?

24 BY MS. BAILEY:

25 Q. This was your first write-up, ever?

1 A. Yes.

2 Q. But this says, "Final Warning." Were you
3 told it was a final warning?

4 A. Yes.

5 Q. But first write-up ever?

6 A. Yes.

7 MS. BAILEY: Okay. Next one.

8 BY MS. BAILEY:

9 Q. And this is the second write-up?

10 A. Yes.

11 Q. After the first write-up?

12 A. Yes.

13 Q. And this one says, "First Warning"?

14 A. Yes.

15 Q. What were you written up for this time?

16 A. For not writing a receipt and my drawer being
17 over \$6.

18 Q. Was that unusual in the Clerk's Office?

19 A. No.

20 Q. How did that happen?

21 A. Their whole system was very outdated, so that
22 happened often.

23 Q. Did it just happen to you or did it happen to
24 others?

25 A. No, that happened to everyone.

1 Q. Was anybody else ever written up?

2 MS. BURCHETTE: Objection. You're
3 asking for speculation. How does she know anything
4 that doesn't pertain to her?

5 BY MS. BAILEY:

6 Q. If you know, was anybody else ever
7 reprimanded for a short drawer for this situation?

8 A. Not that I'm aware of.

9 Q. Was there a time when you were transferred to
10 Oak Ridge?

11 A. Yes.

12 Q. What message did that send to you?

13 A. I was going to be fired.

14 Q. Why did you think that?

15 A. Because it's well-known that if you're
16 transferred to Oak Ridge, that's the clerk's
17 graveyard and you're on your way out.

18 Q. What reason were you given to going to Oak
19 Ridge?

20 A. He said because I was talking to a DCS worker
21 in the courtroom.

22 Q. Were you ever told who transferred you to Oak
23 Ridge?

24 A. Yes.

25 Q. Who?

1 A. William told me.

2 Q. He told you that he had you transferred?

3 A. Uh-huh (affirmative).

4 Q. There's something I forgot to ask you about.

5 When you were denied full-time, did he give you a
6 reason?

7 A. No. But he would say things like -- like he
8 said once, "Your husband almost got you fired for
9 running his mouth."

10 Q. Was there something about his wife, too?

11 A. And it, I guess, somehow had got out that his
12 wife found out we were Snapchatting, and it was a
13 rumor going around the courtroom and the courthouse,
14 and he was mad about that.

15 Q. And he told you, you couldn't have full-time
16 because of that?

17 A. Yes.

18 Q. When you went to HR the first time, did you
19 give a statement?

20 A. When I met him at Big Lots?

21 Q. Was it a statement you prepared or a
22 statement he prepared?

23 A. I prepared.

24 Q. Do you recognize this?

25 A. Yes.

1 Q. What is this?

2 A. That's the statement I provided him.

3 Q. And what were you talking about in this
4 statement?

5 A. Things that had happened.

6 Q. All the things that we've talked about today?

7 A. Yes.

8 Q. And this is before you left the Clerk's
9 Office --

10 A. Yes.

11 Q. -- while you were still working there?

12 A. Yes.

13 Q. Did Mr. Bearden ask you to give a statement
14 or did you volunteer to give a statement?

15 A. Well, I had called him the night before and
16 was telling him, and he told me to give a statement.

17 MS. BAILEY: This is Exhibit 7. I'd
18 like to move this exhibit into the record, please.

19 THE COURT: Without objection, it's
20 admitted.

21 (WHEREUPON, a document was marked as
22 Exhibit Number 7.)

23 BY MS. BAILEY:

24 Q. And then you -- did you get any results or
25 were you satisfied with any results that you got?

1 A. No.

2 Q. So, what did you do after that?

3 A. I was directed to a couple different -- well,
4 to the NAACP.

5 Q. Why did you go to the NAACP?

6 A. I was directed there by someone, and I
7 thought maybe they could help, because I know they
8 do, like, discrimination and stuff.

9 Q. You know that NAACP stands for the National
10 Advancement for the Acceptance of Colored People?

11 A. Yes.

12 Q. But you thought that that would be something
13 you could do or somebody that would help you?

14 A. Yes. I was told that they possibly could.

15 Q. Did they help you?

16 A. They tried.

17 Q. As far as you know, had Anderson County ever
18 done anything to address your issues with Jones?

19 A. No.

20 Q. And is that why you went outside of Anderson
21 County for help?

22 A. Yes.

23 Q. Now, we've seen one of your statements. Did
24 you give another statement to Anderson County?

25 A. A sworn statement, yes.

1 Q. How is it that you came to give a sworn
2 statement to Anderson County?

3 A. I was asked to.

4 Q. Who asked you?

5 A. Russell.

6 Q. And at this time, Russell was head of Human
7 Resources?

8 A. Yes.

9 Q. When you gave this sworn statement, who was
10 in the room?

11 A. I recall Kim being in there.

12 Q. Kim Whitaker?

13 A. And Jay.

14 Q. Jay Yeager, who was the law director?

15 A. Yes, and Russell.

16 Q. Another person in Human Resources?

17 A. I'm not -- I think Stephanie Strickland was
18 there, too. But I'm not 100 percent certain on
19 that.

20 Q. Who was she?

21 A. She was an assistant, I think.

22 Q. But she was with the government, too, the
23 Anderson County government?

24 A. Yes.

25 MS. BAILEY: One moment, please, Your

1 Honor.

2 We're having trouble locating it. I'll
3 just move on.

4 BY MS. BAILEY:

5 Q. But the sworn statement you gave, does it
6 mirror the other statement that you gave that you
7 typed up?

8 A. I believe so.

9 Q. I want to talk about some of the other things
10 that Jones did to you. We talked about him trying
11 to get you to meet him at the tanning bed.

12 Tell me about Gatlinburg.

13 A. He had went on a conference to Gatlinburg,
14 and was trying to get me to come up there with him.

15 Q. What did he ask you?

16 A. Asked if I would come up there. He needed
17 some company.

18 Q. What was your response?

19 A. No.

20 Q. Did he send you pictures from Gatlinburg?

21 A. Yes.

22 Q. Since you've left Anderson County, have you
23 seen Jones?

24 A. Yes.

25 Q. What happens when you see him?

1 A. I go into a full panic attack.

2 Q. Are there places that you avoid because of
3 him?

4 A. Yes.

5 Q. Like, Cracker Barrel?

6 A. Yes.

7 Q. Why?

8 A. He frequents that place often.

9 Q. Walmart?

10 A. Walmart.

11 Q. What happened in Walmart?

12 A. He cornered me in Walmart once in the shampoo
13 aisle.

14 Q. Were your kids with you?

15 A. Yes.

16 Q. Did he say anything to you?

17 A. No, we left.

18 Q. You saw him one time leaving a restaurant.
19 Tell me about that.

20 A. We had ate at a Mexican restaurant and went
21 to leave, and we were stopped to pull out. And
22 before we could pull out, he was pulling in, and he
23 flipped me off and just gave me this evil stare.
24 And so, he pulled out, and maybe a mile and a half
25 or so down the road, I had to pull over at Weigel's,

1 because I was having a panic attack.

2 Q. What happened as a result of the panic
3 attack?

4 A. I passed out.

5 Q. How long were you out or do you know?

6 A. I'm not sure.

7 Q. What did you awaken to?

8 A. With the cops and ambulance, the firetruck.

9 Q. Do you see -- when you see him, do you
10 normally have a panic attack?

11 A. Yes.

12 Q. Tell me about the Post Office.

13 A. He had followed me to the Post Office and had
14 parked behind me to where I couldn't move.

15 Q. So, kind of fenced you in?

16 A. Yes.

17 Q. Did you call the police?

18 A. Yes, and contacted Kim.

19 Q. You contacted Kim Whitaker?

20 A. Yes.

21 Q. And what did she do?

22 A. She was trying to calm me down; asked if I
23 needed anything.

24 Q. Did she ever have the police department do
25 drive-bys by your house?

1 A. Yes.

2 Q. What was that for?

3 A. I had news stations at my house often. I had
4 people, I'm assuming, supporters of William, that
5 would drive by my house and yell vulgar stuff or
6 throw stuff in my yard.

7 Q. So this was a well-publicized issue?

8 A. Yes.

9 Q. On the news?

10 A. Yes.

11 Q. In the newspapers?

12 A. Yes.

13 Q. Did you see the articles?

14 A. Unfortunately.

15 Q. I'm showing you Exhibit 30, and we're just
16 going to scroll through these slowly. Are these
17 some of the articles that were written about this
18 incident or this situation?

19 A. Yes.

20 MS. BAILEY: Exhibit 30, Your Honor, I'd
21 like to move it into evidence.

22 MS. BURCHETTE: No objection.

23 THE COURT: Received.

24 (WHEREUPON, a document was marked as
25 Exhibit Number 30.)

1 BY MS. BAILEY:

2 Q. Something happened at Burger King. Tell me
3 about that.

4 A. I went to Burger King for breakfast, and
5 there was some older people, like senior citizens
6 that I guess recognized me and was saying things,
7 not directly to me, but loud enough, intentionally,
8 so that I would hear them.

9 Q. Did this happen to you a lot?

10 A. It has happened several times, a lot.

11 Q. Now, you live in Scott County now?

12 A. Yes.

13 Q. Why did you move to Scott County?

14 A. When me and my husband divorced, I chose the
15 Scott County house.

16 Q. Is there a particular reason you wanted to go
17 to Scott County?

18 A. To get out of Anderson County.

19 Q. Have you seen a doctor for anything related
20 to this?

21 A. Yes.

22 Q. What?

23 I mean, what doctor did you see?

24 A. Amanda.

25 Q. How long did you see her?

1 A. I'm not sure when I started. I think in
2 maybe '17 or '18.

3 Q. Did Amanda give you any kind of diagnosis?

4 A. Yes.

5 Q. What was her diagnosis?

6 A. PTSD.

7 Q. Did she tell you if this was something she
8 could treat or cure?

9 A. No. It's not curable.

10 Q. Do you think you still have symptoms of PTSD?

11 A. Yes.

12 Q. What are they?

13 A. That's -- that would be hard to explain.

14 It's a long list. It's like --

15 Q. Give me some.

16 A. Nightmares, anxiety. I have trouble with --

17 MS. BURCHETTE: Objection to the extent
18 she's not a healthcare provider and can't diagnose
19 her own symptoms.

20 MS. BAILEY: She can tell me --

21 THE COURT: Overruled.

22 MS. BAILEY: Thank you, Your Honor.

23 THE WITNESS: I still have trouble even
24 today with being in relationships with men; panic
25 attacks; just a lot; flashbacks. Say you're in the

1 grocery store and somebody brushes you; flashbacks.

2 MS. BAILEY: This is Exhibit --

3 MR. COLLINS: 51.

4 MS. BAILEY: -- 51.

5 BY MS. BAILEY:

6 Q. Do you recognize these as notes from your
7 therapist?

8 A. I think this is from the Care Clinic maybe.

9 MS. BAILEY: I'm sorry.

10 MS. BURCHETTE: Exhibit 51 is not --

11 MS. BAILEY: I'm sorry. Wrong note.

12 Is this what you have as 51?

13 MS. BURCHETTE: No. (Indiscernible.)

14 MS. BAILEY: Yes.

15 MS. BURCHETTE: Okay, sorry.

16 BY MS. BAILEY:

17 Q. These are notes from the Care Clinic?

18 A. Yes.

19 Q. What is the Care Clinic and why did you go
20 there?

21 A. It is, like, the clinic that the county has
22 in the courthouse.

23 Q. Did someone send you there?

24 A. Yes.

25 Q. Who sent you there?

1 A. Russell.

2 Q. Was this your first time seeing somebody
3 about the psychological effects you were suffering?

4 A. Yes.

5 MS. BAILEY: I'd like to move this into
6 evidence, Your Honor.

7 THE COURT: Without objection, it's
8 received.

9 (WHEREUPON, a document was marked as
10 Exhibit Number 51.)

11 BY MS. BAILEY:

12 Q. We've talked about a lot of things that
13 happened here today, and this has been going on for
14 awhile. Do you still have flashbacks of this
15 happening?

16 A. Yes.

17 Q. Do you have trouble remembering some of the
18 things that happened?

19 A. Yes.

20 Q. Did you blame yourself for what happened?

21 A. Yes.

22 Q. Why?

23 A. Because I did what he asked.

24 Q. How is your life different now than before
25 this happened?

1 A. That's a hard question to answer, 'cause it's
2 not -- it's like a different life all together, so
3 it's hard to remember what it was like before,
4 but ...

5 Q. You don't even remember your old life?

6 A. No.

7 Q. Has this changed you?

8 A. Yes, this has.

9 Q. I'm sorry. Because what?

10 A. Yes.

11 Q. Tell me what happens when you have these
12 panic attacks.

13 A. My breath gets rapid. I get dizzy,
14 lightheaded. If they get too bad, I just pass out.

15 Q. Have you had property damaged?

16 A. Yes.

17 Q. What property have you had damaged?

18 MS. BURCHETTE: Objection, Your Honor.
19 That's not a source of damages she's seeking.

20 THE COURT: Ms. Bailey?

21 MS. BAILEY: Your Honor, it goes to her
22 overall mental state and how this is contributing to
23 it.

24 THE COURT: Are you able to show that
25 this property damage was caused by the Defendant?

1 MS. BAILEY: No, Your Honor, but I can
2 show the effect that it had on her.

3 THE COURT: Well, suppose some robber in
4 her neighborhood decides to break in her house and
5 damage her door, steals her television, damages her
6 car. Obviously, that's going to have a greater
7 effect on her, but what does it have to do with this
8 case?

9 MS. BAILEY: Because she will always
10 assume everything that happens to her goes back to
11 this incident. So it goes to more of the effect on
12 her than what actually happened.

13 THE COURT: Sustained.

14 MS. BAILEY: May I have a moment, Your
15 Honor?

16 THE COURT: You may.

17 (An off-the-record discussion was
18 held.)

19 BY MS. BAILEY:

20 Q. When all the conversations and all the
21 Snapchats and all the sexual innuendoes, and even
22 you responding, like sending a picture of your
23 breast, were his advances welcomed or unwelcomed?

24 MS. BURCHETTE: Objection, Your Honor,
25 that seeks a legal conclusion.

1 THE COURT: Overruled.

2 THE WITNESS: Unwelcomed.

3 BY MS. BAILEY:

4 Q. But you did them anyway because you felt like
5 you had to?

6 A. Yes.

7 MS. BAILEY: Thank you, Your Honor.

8 Pass the witness.

9 MS. BURCHETTE: Your Honor, just looking
10 at the time. Would you like to take an afternoon
11 break before I --

12 THE COURT: No.

13 MS. BURCHETTE: That is fine. I can
14 proceed.

15
16 CROSS-EXAMINATION

17 QUESTIONS BY MS. BURCHETTE:

18 Q. Good afternoon, Ms. Harness. You began your
19 time in the Anderson County Circuit Court Clerk's
20 Office in January or February of 2016; is that
21 correct?

22 A. Yes.

23 Q. And were you always placed in juvenile?

24 A. Yes.

25 Q. And the juvenile court is located in the

1 Jolley building, correct?

2 A. Yes.

3 Q. And that's across the street from the Circuit
4 Court Clerk's Office?

5 A. Yes.

6 Q. And Mr. Jones' office is in the Circuit Court
7 Clerk's Office?

8 A. Correct.

9 Q. How long after you started your internship --
10 because that's when you started, as of January,
11 February 2016, as an intern, correct?

12 A. Yes.

13 Q. And how long after you started this
14 internship did the -- I believe you testified in
15 your deposition you called it some flirting, some
16 banter. When did that begin?

17 A. Shortly after.

18 Q. And about how often was that?

19 A. It was very often.

20 Q. Once a week, once a month?

21 A. Once a day.

22 Q. Okay. And you said that -- you testified
23 that you interviewed with Mr. Jones for this
24 internship.

25 A. Yes.

1 Q. And there is nothing about that interview
2 that made you -- gave you pause about taking this
3 internship?

4 A. No.

5 Q. And Tracy Spitzer recommended you for this
6 internship?

7 A. Yes.

8 Q. Despite knowing the environment of the
9 Clerk's Office, she recommended you?

10 MS. BAILEY: Objection, Your Honor,
11 calls for speculation and hearsay.

12 THE COURT: Ms. Burchette.

13 MS. BURCHETTE: She was sitting here
14 when Ms. Spitzer testified to the same, Your Honor.

15 MS. BAILEY: Your Honor, but she didn't
16 know that at the time when she took the job.

17 THE COURT: I'll sustain the objection
18 to the question as phrased.

19 BY MS. BURCHETTE:

20 Q. Ms. Spitzer was already employed at the
21 Circuit Court Clerk's Office during the time you got
22 the internship, correct?

23 A. Correct.

24 Q. And outside of telling you that Mr. Jones
25 liked professional, but maybe slightly tight

1 dresses, she didn't tell you anything else about the
2 environment of the Circuit Court Clerk's Office?

3 A. No.

4 Q. And then, how long after this flirting
5 started between you and Mr. Jones did the
6 Snapchatting begin?

7 A. I believe it was maybe like in
8 February/March. So, it wasn't long after.

9 Q. March of 2016?

10 A. Yes.

11 Q. And let's go over Snapchat, because it's been
12 explained, but probably not the best. So that way
13 everyone understands how Snapchat works.

14 Snapchat is an app on a phone, correct?

15 A. Yes.

16 Q. And it was made originally, more likely than
17 not, to take pictures and send pictures, correct?

18 A. Yes.

19 Q. And the pictures disappear after, like, 30
20 seconds of viewing them?

21 A. I don't believe it's 30 seconds, but after --

22 Q. After a certain period of time?

23 A. Yes.

24 Q. And if you screenshot a picture on Snapchat
25 like that someone sends you, it instantly sends a

1 notification to the other person that you
2 screenshotted the Snap?

3 A. Yes.

4 Q. But they also have a text message feature
5 within the app; is that fair?

6 A. Yes.

7 Q. And that's how you and Mr. Jones
8 communicated?

9 A. Yes.

10 Q. And this text message feature, like the
11 picture feature, the messages disappear?

12 A. Yes.

13 Q. But you can save the messages?

14 A. Correct.

15 Q. And by saving the messages, what you do is
16 you tap on the left-hand side of the screen, and it
17 highlights it in a light gray color?

18 A. I think you just tap on the message.

19 Q. And then, it sends it to the top of the chat?

20 A. Yes.

21 Q. It doesn't give them an affirmative
22 notification that somebody just saved that message?

23 A. Yes.

24 Q. But if you screenshot the entirety of the
25 message -- of the screen, then it gives them a

1 notification?

2 A. Yes.

3 Q. Okay. So, all of these Snaps that were shown
4 and discussed and produced, someone saved them?

5 A. Yes.

6 Q. And you saved at least some of them, correct?

7 A. I think so, yes.

8 Q. Because you testified in your deposition
9 there was no rhyme or reason for what you saved?

10 A. Correct.

11 Q. Because some of these Snapchats seem
12 conversational. You know, you're talking about your
13 day, correct?

14 A. Correct.

15 Q. Talking about applying for a job at DCS,
16 even, correct?

17 A. Yes.

18 Q. And so, you're talking about innocuous things
19 intermixed with the explicit messages; is that fair?

20 A. Yes.

21 Q. And you testified at first that you and
22 Mr. Jones started originally communicating through
23 text messages?

24 A. Yes.

25 Q. Did you not save any of those?

1 A. I didn't necessarily delete them, no, but
2 they were on a different phone.

3 Q. Okay. So, but we don't -- we, as we sit here
4 today, don't know what those text messages are.

5 A. Correct.

6 Q. And then you said that you switched over to
7 Snapchat, and that was the main way of
8 communicating, correct?

9 A. Yes.

10 Q. And who was the person -- do you know who
11 added who on Snapchat? Because you have to add each
12 other to be friends, right?

13 A. Correct.

14 Q. Do you recall who added who on Snapchat?

15 A. As far as I can remember, it was just a group
16 effort. He was in the office and several people
17 added him and we added him back.

18 Q. Okay. Because you can ignore someone's
19 friend request on Snapchat, as well, can't you?

20 A. Yes.

21 Q. And so, did you -- you sent Mr. Jones a
22 picture of your breasts on Snapchat?

23 A. Yes.

24 Q. Were they exposed?

25 A. Yes.

1 Q. And it was done through the picture part of
2 the app, not through the messages, correct?

3 A. Yes.

4 Q. Because the picture he sent you requesting
5 the message, that was sent through the messaging
6 app, correct?

7 A. Yes.

8 Q. This right here, this was a picture that was
9 sent through the messaging app so it could be saved?

10 A. Yes.

11 Q. And did you send him any other pictures of
12 anything, not just graphic pictures, did you send
13 him any other pictures through Snapchat?

14 A. Yes, like pictures of my kids, pictures --
15 just random pictures.

16 Q. Because Snapchat in part is used to -- as a
17 social media app to show people about your day,
18 correct?

19 A. Yes.

20 Q. And you testified, and I think if we look
21 through all of these messages, I'm not going to put
22 them all up, but you do talk about your day with
23 Mr. Jones throughout these messages that we have.

24 A. Yes.

25 Q. And you would agree, though, that when -- as

1 you testified earlier, there's no rhyme or reason
2 for what was saved on these -- on the app, correct?
3 There's no method as to what you saved or what --

4 A. As to what was saved, no.

5 Q. And so, some of these messages, some of them
6 appear to be somewhat out of context, would you
7 agree?

8 A. Yes.

9 Q. And so, you may not be getting the full
10 picture of what's going on in the dialogue
11 throughout all of that?

12 A. Correct.

13 Q. Okay. If we look at this Snapchat between
14 you and Mr. Jones, the one that says, "I know who I
15 work for. You're like my daddy; LOL." That could
16 appear to be a little bit of banter between the two
17 of you, because you're calling him "Daddy" in this
18 message?

19 A. Yes, because we are supposed to call him
20 "Daddy".

21 Q. But the LOL implies that you're joking,
22 because LOL stands for "Laugh Out Loud", does it
23 not?

24 A. Correct.

25 Q. And you testified earlier that you were

1 married during this time period, correct?

2 A. Yes.

3 Q. And that your husband knew that you were
4 communicating with Mr. Jones via Snapchat, correct?

5 A. Correct.

6 Q. How did he feel about you communicating with
7 your boss via Snapchat?

8 A. He definitely thought it was weird.

9 Q. Okay.

10 A. He didn't necessarily say whether he approved
11 or not, but it made him uneasy.

12 Q. But he didn't know the context of the
13 messaging in the Snapchats --

14 A. Correct.

15 Q. -- until later?

16 A. Correct.

17 Q. With what I'm going to refer to as probably
18 the most explicit Snapchat that has been saved here,
19 I believe you already testified that you had him
20 repeat the first part of it, which would indicate
21 why he said, "Last thing I sent;" is that correct?

22 A. Yes.

23 Q. And then you saved it?

24 A. I'm not -- I don't recall if I saved it or
25 not. 'Cause every time I save something, he would

1 yell and get mad.

2 Q. Okay. Did you reply to this? It's not
3 saved, but did you reply?

4 A. If I did, it was nothing like that. It would
5 have been a change of subject or something to make
6 him think that, "oh, ha, ha," or something to where
7 he won't get mad.

8 Q. Okay. Because, you know, the words "since
9 you don't" would imply that you responded in some
10 way to that in a response?

11 A. Yes.

12 MS. BAILEY: Objection, Your Honor,
13 calls for speculation.

14 THE COURT: Overruled.

15 THE WITNESS: What brought that up is
16 the girls in the office were talking about a Pure
17 Romance Party. And so that's what started that
18 conversation, and everybody was talking about that
19 in the office.

20 BY MS. BURCHETTE:

21 Q. And is a Pure Romance Party something that
22 gets talked about somewhat frequently in the office?

23 A. I would say not. Somebody was having a party
24 and was talking about it.

25 Q. Okay. And for context here, Pure Romance

1 parties are --

2 MS. BURCHETTE: Your Honor, I can not
3 think of a good way to say this.

4 BY MS. BURCHETTE:

5 Q. Adult toy parties; is that correct?

6 A. I would say, not correct. I would say it's
7 more of an intimate adult thing, but it's not just
8 toys, no.

9 Q. Okay. So it's other things besides the toys?

10 A. Correct.

11 Q. Okay. And those are parties that other
12 people in the Clerk's Office were having?

13 A. Yes.

14 Q. And then you spoke with Mr. Jones via
15 Snapchat about work things, as well, correct?

16 A. Yes.

17 Q. Why didn't you ever think to switch back to
18 texting him on a work-related matter?

19 A. Because he preferred Snapchat.

20 MS. BAILEY: Objection; relevance.

21 THE COURT: Overruled.

22 BY MS. BURCHETTE:

23 Q. So, when you say Mr. Jones preferred
24 Snapchat, did he ever tell you, "Don't text me, just
25 only use Snapchat?"

1 A. He just said, "Use Snapchat."

2 Q. But you testified earlier that you started
3 out by texting him, correct?

4 A. Correct.

5 Q. Okay. And these Snapchats, they started in
6 2016, correct?

7 A. Yes.

8 Q. And do you remember what month in 2016 they
9 started?

10 A. I don't. I believe it was February or March.

11 Q. Okay. And by March 8th of 2016, you were
12 promoted to part-time?

13 A. Yes.

14 Q. And were you still Snapchatting with
15 Mr. Jones during this time?

16 A. Yes.

17 Q. But at some point, the explicit messages
18 stopped, correct?

19 A. When we stopped talking via Snap, yes.

20 Q. So, you're saying the explicit messages carry
21 through all the way until you stop Snapchatting with
22 him?

23 A. The thing is, the "explicit" was throughout
24 the whole thing, whether it was Snap or in person or
25 any time.

1 Q. Okay. And so, you're promoted, then, to
2 part-time, correct?

3 And you're still in juvenile?

4 A. Yes.

5 Q. And that was still in the Jolley building?

6 A. Yes.

7 Q. Not in the same building as anyone else -- or
8 as Mr. Jones' main office?

9 A. Correct.

10 Q. And then, you would get hired on at full-time
11 in August of 2016; is that correct?

12 A. Yes.

13 Q. And that gets you to be -- are you salaried
14 at that point?

15 A. No.

16 Q. So, you're still an hourly employee?

17 A. Correct.

18 Q. And you're still Snapchatting during that
19 time with Mr. Jones?

20 A. I'm not sure when the Snapchatting actually
21 ended. But I think it was sometime before that for
22 the most part.

23 Q. Okay. So, the Snapchatting ended before you
24 went full-time in August of 2016?

25 A. I'm not saying it fully ended. I'm not sure

1 when that exactly fully ended, but it was definitely
2 not as frequent.

3 Q. Okay. So, he's not at least Snapchatting you
4 every day, multiple times a day once you become
5 full-time?

6 A. Correct.

7 Q. That's in August of 2016?

8 A. Correct.

9 Q. August 15th, to be exact. Because you have
10 this promotion sheet where your salary was increased
11 and is effective August 15, 2016, and you were made
12 from part-time to full-time, correct?

13 A. Yes.

14 MS. BURCHETTE: Can we admit this? This
15 is Plaintiff's -- I don't --

16 MR. STANLEY: It may have been.

17 MS. BURCHETTE: I don't think this one
18 was.

19 THE COURT: No objection. It's
20 admitted.

21 THE CLERK: Do you know what number it
22 is?

23 MS. BURCHETTE: I will get you that
24 number, just one second.

25 THE CLERK: Okay.

1 MR. COLLINS: 18.

2 MS. BURCHETTE: Yes. Yes, 18.

3 THE CLERK: Okay. Thank you.

4 (WHEREUPON, a document was marked as
5 Exhibit Number 18.)

6 BY MS. BURCHETTE:

7 Q. And then in September of 2016, you become
8 deputized, correct?

9 A. Yes.

10 Q. And what does it mean to become deputized?

11 A. That means you can, like, officially sign
12 things.

13 Q. So, then, I want to talk about this first
14 write-up you were talking about.

15 Now, you testified that this was mistakenly
16 dated. And it's in 2017 versus 2016, correct?

17 A. Correct.

18 Q. But the date at the top says 2016?

19 A. Correct.

20 Q. And the date of the second interaction says
21 2016?

22 A. Correct.

23 Q. But then, I see where William -- the
24 signature says '17, but it could have -- could it
25 have been 2016?

1 A. No.

2 Q. Why couldn't it have been 2016?

3 A. Because that happened when I was already
4 full-time, for one, and it did not happen when I
5 first started.

6 Q. And you're sure of that, despite the two
7 dates that, say, 2016?

8 A. Absolutely positive. Because I wouldn't have
9 been allowed to file stamp any way without being
10 deputized.

11 Q. Okay. You were given several pay raises
12 while you were there, too, correct?

13 A. Yes.

14 Q. And you had -- which would indicate good
15 performance?

16 A. Yes.

17 Q. And this was after the Snapchatting had at
18 the very least slowed down?

19 A. Yes.

20 Q. And during this time as well, though, you
21 were also having an affair, correct?

22 MS. BAILEY: Objection, Your Honor.

23 MS. BURCHETTE: She put her reputation
24 at issue, Your Honor.

25 MS. BAILEY: Your Honor, this has

1 already been ruled on in document 56.

2 THE COURT: Ladies and Gentlemen, let me
3 have you step outside of the courtroom.

4 (WHEREUPON, the following matters were
5 heard in open court outside the presence of the
6 jury, as follows:)

7 THE COURT: Now, Ms. Bailey, you were
8 making an objection; is that right?

9 MS. BAILEY: Yes, Your Honor. This
10 issues has already been litigated. Your Honor has
11 ruled on it in document 56.

12 THE COURT: Ms. Burchette?

13 MS. BURCHETTE: I need to see the
14 document, Your Honor, the pleadings. Just give me
15 one second.

16 Document 56, Your Honor, unless I'm
17 looking at the wrong thing, is an order denying
18 motion for summary judgment.

19 MR. COLLINS: Your Honor, we'll find it
20 really quickly. The Court clearly ruled on our
21 Motion in Limine about sexual proclivity evidence
22 coming in. I'm astounded that that question was
23 asked. So, I'll find the correct document here in a
24 moment. It's docket entry 57.

25 MS. BAILEY: I'm sorry, Your Honor, 57.

1 MS. BURCHETTE: May I see your copy?

2 MR. COLLINS: Sure.

3 (An off-the-record discussion was
4 held.)

5 MS. BURCHETTE: Your Honor, I did read
6 your order, and while I see what you have said
7 there, the Plaintiff has put her reputation at
8 issue, seeking \$7.5 million. I'm not offering any
9 documents or speaking -- I'm speaking generalities.
10 She had an affair. That does not go to sexual
11 proclivities. I don't think -- I won't go into
12 detail. I'm not going to ask if they Snapchatted,
13 too, or did anything of that sort. But when someone
14 puts their reputation at issue --

15 THE COURT: Let's take a look at Rule
16 412.

17 MS. BURCHETTE: Yes, Your Honor.

18 THE COURT: Okay. And we see there's a
19 jump prohibition --

20 MS. BURCHETTE: Yes.

21 THE COURT: -- against introducing
22 evidence of a person's sexual misconduct.

23 MS. BURCHETTE: Yes.

24 THE COURT: And you can not offer such
25 evidence to prove that a person engaged in sexual

1 behavior or as a result, prove any alleged victim's
2 sexual predisposition.

3 Now, in civil cases, the evidence may be
4 admitted as to reputation, but only if the victim
5 has placed it in controversy. And I think that's
6 what you were eluding to. You were claiming that
7 the Plaintiff has placed her reputation in
8 controversy.

9 MS. BURCHETTE: Yes, Your Honor.

10 THE COURT: And how did she do that?

11 MS. BURCHETTE: She's seeking a million
12 dollars in damages, based on her reputation; damage
13 to her reputation.

14 MS. BAILEY: Your Honor, they've not
15 proven what her --

16 THE COURT: Ms. Bailey, I will call you
17 when the Court needs to hear from you.

18 MS. BAILEY: Yes, Your Honor.

19 THE COURT: I'm talking to Ms. Burchette
20 at the moment.

21 How does asking for money place her
22 reputation at issue?

23 MS. BURCHETTE: That is one of the
24 elements of damages they're seeking. They're
25 seeking damage to her reputation, damage to her

1 emotional wellbeing, medical -- or damages due to
2 the Post Traumatic Stress Disorder. It is one of
3 the elements of damages. They've put her reputation
4 at issue.

5 THE COURT: There's also some procedural
6 requirements.

7 MS. BURCHETTE: Yes, Your Honor, I
8 apologize. I didn't see those. I will withdraw the
9 question.

10 THE COURT: Oh, you're withdrawing the
11 question?

12 MS. BURCHETTE: I mean, depending on how
13 you were going to rule, Your Honor. I do understand
14 I did miss the procedural requirements for doing it.
15 I mean, it's a question. I don't know how we can
16 have an in-camera review of the question, but I do
17 know there is procedural requirement after reviewing
18 the rule.

19 THE COURT: Well, it is your question,
20 so it's your decision whether you want to proceed or
21 not to proceed.

22 MS. BURCHETTE: We'll just proceed, Your
23 Honor.

24 THE COURT: Okay. Since this comes up
25 under cross-examination, and it is difficult to

1 predict in advance what's going to come up on
2 cross-examination, it is hard to see how a party
3 could comply with a 14-day requirement. That may be
4 why it says, "Unless the Court for good cause sets a
5 different time."

6 It does require that notice be given to
7 the other side and also the victim, which here, I'm
8 assuming would be the Plaintiff. And the Court must
9 conduct an in-camera hearing, which to some extent
10 we're doing now.

11 In-camera could interpret to mean a
12 closed hearing where the public is not allowed. It
13 might also mean something else, though.

14 You have any thoughts on those two
15 issues? One is the 14-day requirement and the
16 in-camera hearing.

17 MS. BURCHETTE: We could do an in-camera
18 hearing, Your Honor. I fully understand that I
19 missed the 14-day requirement.

20 THE COURT: Okay. Why don't we have all
21 of the individuals in the courtroom, other than the
22 lawyers and the parties, depart the courtroom. The
23 Court security officer, of course, stay in.

24 (Public attendees leaving the
25 courtroom.)

1 It looks like I saw a person leave with
2 a tape recorder. Was that recorded?

3 MR. COLLINS: Yeah. There's a reporter
4 that just departed, Your Honor.

5 THE COURT: Was that a tape recorder?

6 MR. COLLINS: I don't know if I saw it.
7 I didn't see that. He's with the Oak Ridge or
8 the ...

9 THE COURT: Now, reputation covers an
10 awful lot of things. I can see where this rule
11 would be applicable if a person put their reputation
12 up for chastity at issue.

13 You've indicated that the Plaintiff has
14 put her reputation at issue and you've tied that to
15 damages.

16 What particular aspect of reputation has
17 been placed in controversy?

18 MS. BURCHETTE: Your Honor, she says her
19 reputation was ruined by the treatment of William
20 Jones in the public. The affair that she was having
21 was with an other prominent member of the public.

22 THE COURT: Let's talk about reputation.
23 You can have a reputation for honesty. You can have
24 a reputation for piety. You can have a reputation
25 for bravery. You can have a reputation for a lot of

1 different things. If this was a case involving
2 assault, you could put your reputation of
3 peacefulness in issue by having people testify that
4 you're a very peaceful person. You don't get
5 involved in fights. And the jury could deduce from
6 that, that it's not likely that you start a fight.

7 A reputation covers a multitude of
8 possible issues. I think that the evidence would
9 have to go directly to the aspect of reputation that
10 is at issue. You guys know this case. I do not. I
11 don't know what this evidence is going to consist
12 of. I've heard you say that the Plaintiff put her
13 reputation at issue and it goes to damages. But,
14 again, I have no idea what we're talking about --
15 her reputation, because it covers so many things.

16 Specifically, her reputation for what?

17 MS. BURCHETTE: I think it can be said
18 her reputation for faithfulness. I mean, she's
19 Snapchatting Mr. Jones. She's married. She's had
20 an affair. She's married.

21 THE COURT: Ms. Bailey, when you ask for
22 damages, are you going to ask for damages because of
23 the reputation for -- what was the word that you
24 used?

25 MS. BURCHETTE: "Faithfulness".

1 THE COURT: Faithfulness; asking for
2 damages.

3 MS. BAILEY: No, Your Honor.

4 THE COURT: Are you going to ask for
5 reputational damages?

6 MS. BAILEY: Damage to her reputation,
7 yes, but because --

8 THE COURT: Reputation for what?

9 MS. BAILEY: For her -- just her name.
10 She was made to be the --

11 THE COURT: Her reputation for what?

12 MS. BAILEY: To being a good worker.

13 THE COURT: Her reputation for being a
14 good worker.

15 MS. BAILEY: To being a good mother.

16 THE COURT: For being a good mother.

17 MS. BAILEY: To giving in to his
18 Snapchats.

19 THE COURT: Well, I don't know that's
20 reputation. Reputation is the opinion that people
21 in the community have about you. And I think you
22 could have a reputation as a good mother. You could
23 have a reputation as a good worker. Those are
24 things that people in the community may say about
25 you and may think about you.

1 So, let's see if we can bore down what
2 we're talking about when we say, "Reputation."

3 MS. BAILEY: Your Honor, when this came
4 out, she was made to be the villain.

5 THE COURT: We're talking about
6 reputation. What reputation?

7 MS. BAILEY: Well, that was the
8 reputation that she had; that she was the villain;
9 that this was a politically motivated issue, and it
10 wasn't true. So, I guess it's the reputation for
11 truthfulness.

12 THE COURT: Reputation for truthfulness.

13 MS. BAILEY: With this issue.

14 THE COURT: Okay. That's a legitimate
15 form of reputation.

16 And how is this evidence that she was
17 carrying on an affair, go to her reputation for
18 truthfulness?

19 MS. BURCHETTE: Well, I think it could
20 go to show that she wasn't truthful to her husband
21 if she was carrying on an affair.

22 MS. BAILEY: Your Honor, they've not
23 proven that the husband didn't know.

24 THE COURT: Is there evidence that the
25 husband was not aware?

1 MS. BURCHETTE: The term "affair" itself
2 implies that the husband was not aware, Your Honor.
3 But besides that, I don't have anything in the
4 record so far.

5 MS. BAILEY: Your Honor, the
6 term "affair" means relationship outside of the
7 marriage or relationship.

8 THE COURT: And the evidence would
9 consist of her having an affair with some prominent
10 person in the community?

11 MS. BURCHETTE: Yes.

12 THE COURT: And it's contemporaneous
13 with the events here?

14 MS. BURCHETTE: Yes. It's around the
15 same time period.

16 MS. BAILEY: Your Honor, she testified
17 in her deposition that it was over before she got a
18 job with the juvenile court.

19 MS. BURCHETTE: She had the affair
20 during that whole time period. Then they broke up
21 and they got back together in 2018.

22 MS. BAILEY: Your Honor, her testimony
23 on Page 42 of her deposition.

24 MS. BURCHETTE: The 2020 or the 2019?

25 MS. BAILEY: This is the 2019

1 deposition.

2 "So, when you were there for a month in
3 Oak Ridge, were you having an affair with this
4 person at the time?"

5 "No."

6 "So, it was before or after then?"

7 "Before."

8 "So, you were in juvenile court?"

9 "Yes."

10 Aside from all of that, Your Honor, this
11 evidence will be more prejudicial and outweigh its
12 probative value.

13 THE COURT: Well, what we're trying to
14 find out exactly, probative value is first, and
15 that's what we're talking about; reputation. The
16 evidence has to be admissible for a proper person,
17 so we can weigh that. And we're trying to identify
18 what the problem for the person is.

19 And the ruling anticipates that if the
20 Plaintiff had, in fact, put her reputation in
21 controversy, then this type of evidence is allowed.
22 So I've been persistent in trying to find out
23 exactly what are we talking about when we say,
24 "Reputation."

25 MS. BURCHETTE: Your Honor, if I

1 understood what Ms. Bailey just read correctly, and
2 I might have not been following, because I'm trying
3 to find in the deposition I took of her of the
4 Plaintiff, it's stated that the affair was before
5 she got transferred to the General Sessions II,
6 which would have happened while she was in Juvenile,
7 which would be around the same time she's
8 Snapchatting Mr. Jones.

9 THE COURT: Now, the Court is going to
10 be somewhat lenient with regard to the 14-day
11 procedural requirement, because it did come up on
12 cross-examination. And based upon what the parties
13 have told me, I think it is doubtful that the
14 reputation that the Plaintiff is going to discuss
15 would allow the introduction as evidence.

16 The Court does not have the benefit of
17 knowing exactly what the Plaintiff is going to say
18 and what she's going to be asked. So at this time
19 the Court will not allow the evidence, but if the
20 Plaintiff does testify, or if counsel asks questions
21 or suggests that the Plaintiff's reputation is
22 such -- or the Plaintiff's reputation has been
23 damaged in such a way, the evidence might be
24 revisited. The Court will reconsider it. And that
25 will include at the conclusion of the case after

1 arguments have been made.

2 MS. BURCHETTE: Yes, Your Honor.

3 MS. BAILEY: Thank you, Your Honor.

4 THE COURT: Everyone understand that?

5 MS. BAILEY: Yes, Your Honor.

6 MS. BURCHETTE: Yes, Your Honor.

7 THE COURT: Okay.

8 It's about 10 minutes after. Why don't
9 we take our afternoon break now, then, and let's
10 resume at 3:30.

11 (Short break.)

12 (WHEREUPON, the jury re-entered the
13 courtroom, with matters being heard in open court,
14 as follows:)

15 BY MS. BURCHETTE:

16 Q. Ms. Harness, following your write-up in
17 February of either '16 or '17. I know you say it
18 was an improper date. It was in '17. You were
19 written up against in March -- on March 30th of
20 2017, correct?

21 A. Correct.

22 Q. And this was for carelessness, correct?

23 A. Yes.

24 Q. Because your drawer was over \$6?

25 A. Yes.

1 Q. And who is Jessica Williams?

2 A. She was the office manager.

3 Q. Okay. So it was Jessica who wrote you up and
4 not Mr. Jones?

5 A. Yes.

6 MS. BURCHETTE: And I don't believe that
7 this one has been moved into evidence.

8 THE CLERK: What number?

9 MS. BURCHETTE: That's a good question,
10 Mrs. Lewis.

11 MR. KNIGHT: Part of 15.

12 MR. COLLINS: It's been moved. That's
13 number 23.

14 MS. BURCHETTE: Number 23.

15 THE CLERK: It has.

16 BY MS. BURCHETTE:

17 Q. And part of your duties as a clerk is to
18 assist the court staff, correct?

19 A. Yes.

20 Q. And you did that while in the juvenile
21 courts, correct?

22 A. Yes.

23 Q. And do you recall Amy Perez, who I believe
24 was the judge's judicial assistant at the time,
25 having any complaints about your behavior in court?

1 A. No.

2 Q. So, you don't know that she sent an e-mail to
3 Mr. Jones regarding issues with you in juvenile
4 court?

5 A. No.

6 Q. So, you weren't on your phone during a docket
7 reading?

8 A. Yes, I was on my phone. That was the only
9 way we could communicate. So, if they had a
10 question in the office, they would text me about it.

11 Q. Were you paying attention to what was going
12 on?

13 A. Yes.

14 Q. Would you be surprised to say that Ms. Perez
15 said that you weren't paying attention?

16 A. Yes.

17 Q. And did you sometimes stay in the courtroom
18 and speak with the members of the DCS, or the
19 District Attorney's Staff instead of going back to
20 your office and filing?

21 A. I was instructed to stay in the courtroom.
22 That's where I finished the orders while the judge
23 was on break.

24 Q. So, you didn't know, though, that Ms. Perez
25 wrote an e-mail to Mr. Jones discussing issues with

1 your behavior in juvenile court?

2 A. I've seen it since. But, no, not at that
3 time, I was not aware of anything.

4 Q. So you have seen this e-mail, then?

5 A. Yes.

6 MS. BURCHETTE: Can we go ahead and mark
7 this as Plaintiff's Exhibit 8.

8 MR. KNIGHT: It's in there.

9 (WHEREUPON, a document was marked as
10 Exhibit Number 8.)

11 BY MS. BURCHETTE:

12 Q. And that e-mail was sent around the time you
13 were transferred to General Sessions II, correct?

14 A. Correct.

15 Q. So that moved you out of the juvenile courts,
16 correct?

17 A. Are you saying the e-mail sent me out of the
18 juvenile court?

19 Q. No, I'm saying that move. General Sessions
20 is not juvenile.

21 A. Correct.

22 Q. And then, you reported Mr. Jones' behavior in
23 August of 2017, correct?

24 A. Yes.

25 Q. And that's a year after you went full-time?

1 A. Yes.

2 Q. And that's a year after the vulgar Snapchats
3 ceased?

4 A. I would not say they ever ceased, but yes, it
5 wasn't near as much or anything.

6 Q. Okay. Do you remember giving your deposition
7 on February 19th, 2020?

8 A. Yes.

9 Q. And you were under oath and swore to tell the
10 truth.

11 A. Yes.

12 Q. And do you see where it says, "Okay. Did it
13 stop in 2016. I think the vulgar ones did. Okay.
14 But then you continued to talk through -- I think
15 there was a conversation after that, but it was not
16 vulgar."

17 A. Yes, not like the ones that we were referring
18 to with the nasty one.

19 Q. But this is -- they're -- there weren't
20 vulgar Snapchats. And you just said there were
21 still vulgar Snapchats.

22 A. It was still sexual, whether it was really
23 vulgar.

24 Q. But you didn't report to anyone until 2017,
25 correct?

1 A. Correct.

2 Q. And then you went to Mr. Bearden in Human
3 Resources?

4 A. Yes.

5 Q. And when you were first hired -- when you
6 were first hired as an intern, did you have to fill
7 out any type of paperwork?

8 A. Yes.

9 Q. And did you go to Human Resources to do that?

10 A. I filled my paperwork out in the Clerk's
11 Office.

12 Q. Okay. What about -- did you have to fill out
13 any additional paperwork when you became a paid
14 part-time employee?

15 A. Everything that I filled out was in the
16 Clerk's Office.

17 Q. So you never met with Mr. Bearden or any
18 member of HR?

19 A. I did meet with Kim whenever I had my badge
20 made.

21 Q. Okay. So you went to the HR office and met
22 with Kim to have, I guess, it was a badge to let you
23 indoors?

24 A. Yes.

25 Q. Okay. So you knew where HR was?

1 A. Yes.

2 Q. Okay. And you didn't think about turning
3 down the part-time job when Mr. Jones was having
4 this flirty, inappropriate, I'm not sure where we
5 were at on the timeline when the message turned
6 truly vulgar Snapchat conversations, you didn't
7 about looking for something else?

8 A. I couldn't look for something else at that
9 time. I was also under an internship.

10 Q. Did you think about going to your advisor and
11 asking to switch?

12 A. What advisor?

13 Q. Your college advisor.

14 A. No. It was online and I had to fill out
15 paperwork and send it in.

16 Q. Okay. I mean --

17 And so, in even in 2016, then, after you
18 graduated, because I'm assuming in August you would
19 have -- did you graduate from your undergraduate
20 degree in May of 2016?

21 A. Yes.

22 Q. So, in August when you got promoted
23 full-time, did you think twice about accepting that
24 full-time job knowing everything that was going on
25 with Mr. Jones?

1 A. At that time I needed it for my livelihood
2 and my kids, so no, I didn't.

3 Q. Did you think about applying anywhere else?

4 A. No.

5 Q. Where did you apply?

6 A. I know I applied at DCS a couple times.

7 Q. And you mentioned that to Mr. Jones in the
8 Snapchat. Y'all talked about that as well?

9 A. Yes.

10 Q. And you testified about Mr. Jones asking you
11 to a conference in Gatlinburg.

12 A. Yes.

13 Q. Is it the same conference he asked Ms. Ogle
14 to that she testified to yesterday?

15 A. I can't attest to that.

16 Q. Do you still go out to eat at restaurants
17 today?

18 A. Some, yes.

19 Q. And do you go to activities with your
20 children?

21 A. Some, yes.

22 Q. And do you go and socialize with friends and
23 go -- are you divorced now?

24 A. Yes.

25 Q. Do you go on dates?

1 A. No.

2 Q. Don't have time with being a mom?

3 A. No.

4 Q. But do you go hang out with friends any in
5 social situations?

6 A. No.

7 Q. But you still will go and take your kids to
8 things?

9 A. Yes.

10 Q. And you still will go out to eat in
11 restaurants?

12 A. Yes.

13 Q. Okay. And you testified that you moved to
14 Scott County to get out of Anderson County; is that
15 correct?

16 A. Yes.

17 Q. Aren't you originally -- are you originally
18 from Scott County?

19 A. Yes.

20 Q. And is your -- does your sister still live in
21 Scott County?

22 A. Yes.

23 Q. And your best friend, does she still live in
24 Scott County?

25 A. No.

1 Q. But you still have a support system in Scott
2 County?

3 A. I wouldn't say, "A support system." My
4 sister is there.

5 Q. Okay. So, at least that's where some of your
6 family is, is Scott County?

7 A. Yes.

8 Q. Okay. And have you ever filed a lawsuit
9 before?

10 A. Yes.

11 MS. BAILEY: Object to relevance, Your
12 Honor?

13 THE COURT: Ms. Burchette?

14 MS. BURCHETTE: It's going to show
15 possibly a pattern of amounts of damages, Your
16 Honor.

17 THE COURT: Overruled.

18 BY MS. BURCHETTE:

19 Q. And when you filed -- when you went to HR in
20 August of 2017 --

21 THE COURT: Counsel. Counsel, was there
22 an answer to your question?

23 MS. BURCHETTE: Oh, you overruled my
24 objection. I'm sorry, I thought you sustained it.
25 My apologies.

1 BY MS. BURCHETTE:

2 Q. Have you ever filed a lawsuit before?

3 A. Yes.

4 Q. And have you -- this lawsuit, have you ever
5 sued the Scott County government?

6 A. Yes.

7 Q. And in that lawsuit, did you seek \$9 million?

8 A. I'm not sure, honestly.

9 MS. BAILEY: Your Honor, I object to
10 this lawsuit under 403.

11 MS. BURCHETTE: She's seeking a large
12 amount of damages, Your Honor. This shows she has
13 sued governmental entities in the past, seeking
14 large amounts of damages.

15 THE COURT: Objection overruled.

16 BY MS. BURCHETTE:

17 Q. Ms. Harness, what's your maiden name?

18 A. Alreton (phonetic).

19 Q. So, is this lawsuit, then, the one that you
20 filed in Federal Court against Scott County,
21 Tennessee?

22 A. Yes.

23 Q. And this is the last two pages, which
24 includes the prayer for relief where you're seeking
25 \$1 million each in compensatory damages, \$1 million

1 in punitives for a grand total of \$9 million; is
2 that correct?

3 A. Yes.

4 Q. And you're seeking \$7.5 million from Anderson
5 County; is that correct?

6 A. Yes.

7 Q. You previously testified that this lawsuit or
8 this incident between you and Mr. Jones, it was very
9 prominent in the news; is that correct?

10 A. Yes.

11 Q. And you said that news stations were at your
12 house?

13 A. Yes.

14 Q. And Plaintiff's counsel showed you these news
15 articles, is that correct, that were written about
16 it?

17 A. Yes.

18 MS. BURCHETTE: Your Honor, if I may
19 pass to Madam Courtroom Deputy to show the Plaintiff
20 this exhibit?

21 THE COURT: You may.

22 MS. BURCHETTE: (Passing document to
23 court deputy.)

24 THE WITNESS: Thank you.

25 ///

1 BY MS. BURCHETTE:

2 Q. Where in those news articles is your name
3 mentioned?

4 A. It will take me awhile to look through every
5 bit of these to see my name.

6 Q. Well, would you believe me if I said your
7 name wasn't mentioned?

8 A. It would be hard to believe, considering if
9 you get on the Internet and Google my name, that's
10 what pops up. So it would be hard to believe that.

11 Q. Well, then, you can flip through them.

12 A. (Reviews documents.)

13 MS. BAILEY: Your Honor, if counsel is
14 saying that her name is not in there, we'll
15 stipulate to that to save the Court some time.

16 MS. BURCHETTE: To save the Court time,
17 that's fine, Your Honor.

18 THE COURT: Ms. Harness, the lawyers
19 have stipulated that your name is not to be found in
20 those documents, so you don't have to look anymore.

21 THE WITNESS: Okay.

22 THE CLERK: (Passing document back to
23 Ms. Burchette.)

24 BY MS. BURCHETTE:

25 Q. And Ms. Harness, you know that lawsuits are a

1 matter of public record, correct?

2 A. Yes.

3 Q. And that anyone can go on PACER or in any
4 Court Clerk's Office and pull lawsuits?

5 A. Yes.

6 Q. Okay. And so, could that be part of the
7 reason your name's brought up is because you filed
8 this lawsuit?

9 A. Which one are you referring to?

10 Q. The one we're here for today.

11 A. Yes.

12 Q. And so, in August of 2017, you went to HR and
13 reported it to Mr. Bearden, Mr. Jones' behavior,
14 correct?

15 A. Yes.

16 Q. One year after being full-time?

17 A. Yes.

18 Q. And then you gave your sworn statement on
19 September 14th of 2017, correct?

20 A. Yes.

21 Q. And then, you were put on, I believe,
22 Mr. Bearden testified to it as administrative leave.
23 You called it FMLA leave. You were put on leave,
24 correct?

25 A. Yes.

1 Q. Taken away from Mr. Jones?

2 A. Out of the work area, yes.

3 Q. Out of the work area of Mr. Jones?

4 A. Yes.

5 Q. And you're still receiving your salary that

6 you would have received as a clerk?

7 A. Yes.

8 Q. And you're still receiving all your benefits?

9 A. Yes.

10 Q. And then in, I believe it's March of 2018, is

11 that when you go to work for the Senior Center?

12 A. Yes.

13 Q. And again, you're still receiving your clerk

14 salary?

15 A. Yes.

16 Q. And you're still receiving your benefits?

17 A. Yes.

18 Q. And then, 2018's an election year, correct?

19 A. Yes.

20 Q. And so, Mr. Jones had a challenger in the

21 election of Mr. Lynch?

22 A. Yes.

23 Q. And Mr. Lynch beat Mr. Jones in the election?

24 A. Correct.

25 Q. And so, do you recall receiving an e-mail

1 from Ms. Whitaker to all clerk employees saying that
2 they needed to reapply for their jobs, and to do
3 that to show interest in applying that you needed to
4 submit --

5 MS. BAILEY: Object to relevance, Your
6 Honor.

7 THE COURT: Ms. Burchette?

8 MS. BURCHETTE: She testified that she
9 was fired, Your Honor. I'm going to show that she
10 wasn't, or we might just have a dispute as to what
11 the terminology is as to it, but that's what it's
12 going to.

13 THE COURT: She wants to contradict the
14 witness' statement that she was fired?

15 MS. BURCHETTE: Yes.

16 THE COURT: Ms. Bailey?

17 MS. BAILEY: Your Honor, we agree that
18 she was not rehired, but ...

19 MS. BURCHETTE: But she testified she
20 was fired.

21 THE COURT: Ms. Burchette.

22 MS. BURCHETTE: Sorry, Your Honor.

23 THE COURT: You talk to the Court. Do
24 not talk to opposing counsel.

25 MS. BURCHETTE: Yes, Your Honor.

1 THE COURT: Now, Ms. Bailey.

2 MS. BAILEY: Your Honor, she was
3 terminated, which technically is fired, but this is
4 irrelevant as to whether or not -- they're not
5 saying she got another job. We stipulate she was
6 not rehired.

7 THE COURT: Well, I don't think the
8 point is so much that, but she wants to contradict
9 what the witness said. So contradiction is always
10 relevant.

11 Objection is overruled.

12 BY MS. BURCHETTE:

13 Q. And you interviewed, then -- you reapplied
14 for your job?

15 A. Yes.

16 Q. And you interviewed, correct?

17 A. Yes.

18 Q. Or you had a meeting with Ms. Whitaker and
19 Ms. Strickland?

20 A. Yes.

21 Q. Okay. And ultimately it was decided that you
22 would not be rehired for your position. I believe
23 that's what the e-mail Ms. Whitaker sent stated?

24 A. Yes.

25 Q. Okay. But during that time, you had been

1 applying at Douglas Cherokee Economic Authority as
2 well?

3 A. Yes.

4 Q. And you had accepted a job there?

5 MS. BAILEY: Object to relevance, again,
6 Your Honor.

7 MS. BURCHETTE: She said she had a
8 reputation as a good worker.

9 THE COURT: I don't know where this is
10 going, but I will admit it to see where it goes.

11 Proceed.

12 THE WITNESS: Yes.

13 BY MS. BURCHETTE:

14 Q. And you had applied for this job before you
15 left the employment of Anderson County, correct?

16 A. Yes.

17 Q. And you were ultimately let go from your job
18 at Douglas Cherokee Economic Authority, correct?

19 A. Yes.

20 Q. For performance issues?

21 A. Yes.

22 Q. And that was in November of this year?

23 A. Of last year.

24 Q. Of last year, of 2020. COVID years, they
25 mess everything up.

1 MS. BURCHETTE: One minute, Your Honor.

2 BY MS. BURCHETTE:

3 Q. Are you currently employed, Ms. Harness?

4 A. No.

5 MS. BAILEY: Object to relevance, Your
6 Honor.

7 THE COURT: Ms. Burchette?

8 MS. BURCHETTE: She's seeking \$7 million
9 of damages. She was terminated from her job. I'm
10 just trying to see if she sought other employment.

11 MS. BAILEY: That's not part of the
12 damages we're seeking, Your Honor.

13 THE COURT: It looks like she's not
14 asking for lost wages or lost income, is she?

15 MS. BURCHETTE: No, Your Honor.

16 MS. BAILEY: No, Your Honor.

17 THE COURT: Okay. Sustained.

18 MS. BURCHETTE: No further questions.

19 THE COURT: Redirect.

20 MS. BAILEY: Thank you, Your Honor.

21 Very briefly.

22 Can I see that Angie Perez e-mail?

23 MS. BURCHETTE: Which one?

24 MS. BAILEY: That Angie Perez, e-mail.

25 Thank you.

REDIRECT EXAMINATION

QUESTIONS BY MS. BAILEY:

Q. Ms. Harness, you were shown this e-mail on cross, and you said you didn't know anything about any of these issues.

A. No.

Q. And the date of this e-mail is August 9, 2017?

A. Yes.

Q. What else happened on August 9, 2017?

A. That morning I had turned in my complaint.

Q. So, the day you turned in your complaint, they started complaining about you?

A. Yes.

Q. You were asked about some activities that you still do with your kids. Has anything changed about what you do with your kids?

A. Yes.

Q. What?

A. Like when we go to restaurants, we go to Somerset, 'cause -- which is really out of our way, but it's nowhere where William Jones would probably be.

Q. What about taking your kids to school?

A. I take different routes, because they stayed

1 in Anderson County schools last year.

2 Q. You were asked about a lawsuit in which you
3 sought \$9 million.

4 A. Yes.

5 Q. Did you sign the complaint?

6 A. I'm not sure.

7 Q. Did you know your lawyers were asking for
8 \$9 million?

9 A. No.

10 Q. Did you get \$9 million?

11 A. No.

12 Q. The articles in the media that you were asked
13 about, and we said your name wasn't in any of them,
14 were these discussed when they came out, the
15 articles discussed, the Podcasts discussed?

16 A. Yes.

17 Q. Did people know who they were talking about?

18 A. Yes.

19 Q. And you were -- you were told your name comes
20 up because you filed this lawsuit?

21 A. Yes. Well --

22 Q. Go ahead, I'm sorry.

23 A. It was even before that, though.

24 Q. And when you first made a complaint to Kim
25 Whitaker and to Bearden, you asked that it be

1 anonymous?

2 A. Yes.

3 Q. And when you found out it was not going to
4 be, you tried to withdraw?

5 A. Yes.

6 Q. And you were encouraged by Anderson County
7 Human Resources --

8 MS. BURCHETTE: Objection, Your Honor.
9 This is leading.

10 BY MS. BAILEY:

11 Q. Were you encouraged by Anderson County Human
12 Resources to continue?

13 A. Yes.

14 Q. Douglas Cherokee; you were fired?

15 A. Yes.

16 Q. Why?

17 A. Most of it was due to the fact that when
18 COVID hit, I was in my office alone, because I
19 worked at a school. School was out. And the
20 anxiety and depression got too bad. I just had --
21 it was overwhelming, so I couldn't focus.

22 Q. Anxiety and depression due to what?

23 A. Due to the William -- it was the same kind of
24 setup. I just couldn't focus at all.

25 Q. So --

1 A. It gave me too much free time to think about
2 everything and to come up with scenarios.

3 MS. BAILEY: May I have a moment, Your
4 Honor?

5 THE COURT: You may.

6 MS. BAILEY: (Conferring with counsel.)

7 BY MS. BAILEY:

8 Q. We don't have the transcript of radio shows,
9 but was your name ever mentioned on the radio?

10 A. I was mentioned on the radio, yes.

11 Q. Were they saying you weren't truthful?

12 A. Yes.

13 Q. And you were asked, or you were told, that
14 the Snapchats stopped being vulgar, but you said
15 they continued to be sexual?

16 A. Yes.

17 Q. Were there other things that were sexual
18 and/or vulgar, that happened after the Snapchats?

19 A. Yes.

20 Q. What was that?

21 A. It was always every day, every time you
22 walked into the office, he would come in and sat on
23 your desk and look down your shirt. He would pull a
24 chair up and he would, like, rub your leg and lean
25 his head over on you (crying).

1 Q. And this happened well past the Snapchats?

2 A. Yes.

3 Q. Okay. What else did he do?

4 A. He would pull a chair up, a rolling chair.

5 And it got so bad and he would be just too much,

6 that I started moving the rolling chair completely

7 out of the office. And he would put it back. And

8 I'd come in the next morning, and he had this big

9 sign on it that said, if the chair was moved again,

10 you would be fired.

11 Q. So, again, because you are rebuffing his

12 advances, you're threatening to be fired?

13 A. Yes.

14 MS. BAILEY: That's all I have, Your

15 Honor. Thank you.

16 THE COURT: You may step down.

17 (Witness excused.)

18 THE COURT: You may call your next

19 witness.

20 MR. COLLINS: Plaintiff calls

21 Dr. Amanda Surdock. Your Honor, may I be excused

22 briefly to --

23 THE COURT: You may.

24 MR. COLLINS: Thank you.

25 (WHEREUPON, the witness was sworn in by

1 the Court Clerk.)

2 MR. COLLINS: May I proceed, Your Honor?

3 THE COURT: You may.

4
5 * * *

6 **AMANDA SURDOCK, PH.D.,**

7 was called as a witness, and after having been duly
8 sworn, testified as follows:

9
10 DIRECT EXAMINATION

11 QUESTIONS BY MR. COLLINS:

12 Q. Dr. Surdock, thank you for coming down from
13 Knoxville today. Would you please introduce
14 yourself to the jury.

15 A. May I remove my mask?

16 Q. Oh, yes.

17 A. Thank you. Hi, I'm Dr. Amanda Surdock. I'm
18 a licensed clinical psychologist.

19 Q. Will you elaborate for us on what you do as a
20 clinical psychologist?

21 A. The focus of my practice is for diagnostics
22 and evaluation. So I focus on determining an
23 appropriate diagnosis for a client that comes in, in
24 helping treat them, or provide support, or guide
25 them to other interventions as necessary.

1 Q. And I understand you provide clinical and
2 counseling services to patients with mental,
3 emotional and behavioral disorders.

4 A. Yes, I do.

5 Q. What kind of degrees and training are
6 required for one to become a clinical psychologist?

7 A. Well, you have to get a bachelor's degree,
8 master's degree, and then a form of a doctorate
9 degree, as well as getting some post-doctoral
10 training and supervision, and passing a national
11 licensure exam.

12 Q. And so, you're a Ph.D.?

13 A. Yes.

14 Q. You mentioned the post-doc- -- or the
15 pre-doctoral internship in the field. Where did you
16 do your internship?

17 A. I did my pre-doctoral internship at
18 Mississippi State Hospital in Whitfield,
19 Mississippi.

20 MR. COLLINS: Mrs. Lewis, I'm going to
21 pull up an exhibit here.

22 THE CLERK: Are you -- I mean, it's on
23 there -- oh, are you doing it there at the podium?

24 MR. COLLINS: Yes, ma'am.

25 THE CLERK: Okay. Thank you.

1 BY MR. COLLINS:

2 Q. This is a copy of your CV, which has been
3 premarked as Exhibit 56. It may help me kind of go
4 through some of your background.

5 MR. COLLINS: Plaintiff would go ahead
6 and move Exhibit 56 into evidence, Your Honor.

7 THE COURT: Any objection?

8 MS. BURCHETTE: No objection.

9 THE COURT: Without objection, it's
10 received.

11 (WHEREUPON, a previously marked
12 document was shown as Exhibit Number 56.)

13 BY MR. COLLINS:

14 Q. So you did your pre-doctoral internship where
15 again, in Mississippi?

16 A. At Mississippi State Hospital.

17 Q. And that was before you were actually, what
18 do they call it, "hooded".

19 A. Yes, that was before I graduated with my
20 Ph.D. That's part of the graduation requirements,
21 that you do a year of internship.

22 Q. But that doesn't make you a clinical
23 psychologist, correct?

24 A. No.

25 Q. And that's when you go -- you have to do

1 additional post-doctoral hours?

2 A. Right. I had to do an additional 1,500 to
3 2,000 hours of post-doctoral supervision.

4 Q. I know it's quite a bit probably different in
5 many respects, but is it kind of like a residency
6 program that a medical doctor would go through, but
7 this is for clinical psychologists?

8 A. Yes, very similar.

9 Q. How many hours of post-doctoral work do you
10 do?

11 A. I did 1,500 to 2,000 hours. I did a lot.

12 Q. So after you get your degree, you do your
13 post-doctoral hours. Does that make you a clinical
14 psychologist or are there other steps?

15 A. Well, in order to be -- I mean, you're a
16 clinical psychologist, but you're not licensed until
17 you take the national examination, the examination
18 for professional psychology, the E-triple-P.

19 Q. That's the -- what did you call it, the
20 "E-triple-P"?

21 A. "E-triple-P".

22 Q. That's the Examination for Professional
23 Practice in Psychology?

24 A. Yes.

25 Q. And that's an exam that you have to take in

1 order to be licensed as a clinical psychologist?

2 A. Yes. And then you have to go through the
3 State requirements. So, that can be oral exams or
4 just jurisprudence or the law in the state you're
5 licensed in.

6 Q. And I understand you are licensed in both
7 Tennessee and Mississippi?

8 A. Correct.

9 Q. Has your license ever been suspended or
10 enacted for any reason?

11 A. No.

12 Q. And I take it you passed the national exam?

13 A. Yes. Well, above the minimum.

14 Q. And I believe you said, "Oral exam." And I
15 take it you passed that without incident?

16 A. Yes.

17 Q. What goes into the master's degree in
18 psychology?

19 A. My masters involved a lot of classes and
20 completing research, and my thesis, which was in
21 guilt as an attribution of -- or guilt as a
22 moderator and attribution of style and trauma.

23 Q. Your CV, the title of that thesis
24 was "Feelings of Guilt as a Moderator of
25 Attributional Styles and Severity of Post-Traumatic

1 Stress?"

2 A. Correct.

3 Q. But it's about trauma?

4 A. Yes, it's about trauma.

5 Q. And post-traumatic stress?

6 A. Yes.

7 Q. And I understand you went to -- you got your
8 bachelor's degree from California State Polytechnic
9 University?

10 A. Correct, in Pomona.

11 Q. And then, you got your master's degree and
12 your Ph.D. from the University of Mississippi?

13 A. Yes, I did.

14 Q. In Oxford, Mississippi?

15 A. Yes.

16 Q. Ole Miss?

17 A. Yes.

18 Q. Do you have continuing education
19 requirements, too?

20 A. Yes, for both of my states I have to do 20
21 hours of continuing education every year, basically.
22 Several of which have to be in ethics. And in the
23 State of Tennessee, there is also a legal component.
24 I have to refresh on the law.

25 Q. And I believe you touched on this, but do you

1 have a particular area of focus within the larger
2 field of clinical psychology?

3 A. My specific focus is in diagnostic and
4 assessments.

5 Q. Diagnosing patients with mental, emotional
6 and behavioral disorders?

7 A. Yes.

8 MR. COLLINS: Your Honor, at this time I
9 would tender Dr. Surdock as an expert in clinical
10 psychology.

11 MS. BURCHETTE: No objection.

12 THE COURT: The Sixth Circuit has
13 determined it is improper to move the approval of an
14 expert, and it's improper for the Court to certify
15 in front of the jury as an expert.

16 MR. COLLINS: I'm sorry, Your Honor.

17 THE COURT: So the Court declines the
18 opportunity to do so.

19 MR. COLLINS: I didn't realize that,
20 Your Honor. I apologize.

21 BY MR. COLLINS:

22 Q. How did you become involved in this case?

23 A. Gail Harness was referred to me as a patient
24 in May of 2018 in the practice I was currently in.

25 Q. And at the time I think you were at Bearden

1 Behavioral Health?

2 A. Correct.

3 Q. And that's a group in Knoxville?

4 A. Yes.

5 Q. With psychiatrists and psychologists and
6 other lower level providers?

7 A. Right. I was a psychologist. There were
8 psychiatric nurse practitioners, LPCs, LCSWs. A
9 large group of mental health providers.

10 Q. And I understand you now have gone out on
11 your own and you have your own private practice?

12 A. Yes, I do.

13 Q. But you began seeing her in May of 2018?

14 A. Correct.

15 Q. What types of services have you provided just
16 generally? Is it psychotherapy or what have you --
17 kind of diagnostics for --

18 A. With Ms. Harness, the initial step when
19 someone presents for psychotherapy is to do a
20 diagnostic interview to figure out what exactly they
21 are presenting with. So that is the first step.

22 And then, she was presented to me as a
23 therapy case, so we started determining what
24 therapy goals should be.

25 Q. We'll drill down on your diagnosis and

1 treatment in a moment. But let's explain to the
2 jury generally just what psychotherapy is?

3 A. Psychological -- it's talk therapy. So, most
4 treatment of psychological issues would be either
5 psychotherapy or talk therapy or pharmacotherapy,
6 which is medication. So, I provide the talk therapy
7 parts, discussing issues. Specifically, I do
8 cognitive behavioral therapy. So, we talk about
9 moods and emotions and thoughts and feelings and how
10 those relate to your symptoms.

11 Q. Are there other approaches to psychotherapy
12 other than cognitive behavioral therapy?

13 A. There are. They're not -- I mean, cognitive
14 behavioral therapy is more common, but there are
15 some that are not.

16 Q. That's - but you follow the prevailing --

17 A. Yes.

18 Q. -- form of psychotherapy?

19 A. Yes, the gold standard, so to speak.

20 Q. What was Gail's primary complaint that she
21 presented with?

22 A. She presented with significant anxiety and
23 panic related to repeated harassment she reported
24 experiencing at work.

25 Q. And what kind of difficulties was Gail

1 having?

2 What kind of mental or emotional symptoms or
3 problems was she there to get help with?

4 A. She was reporting a lot of anxiety and
5 feelings of panic. So, difficulty breathing
6 difficulty focusing, feeling shaky, feeling nervous,
7 worrying about things that would happen to her. She
8 felt threatened by things, wondering if somebody was
9 going to harm her, or if she was going to lose her
10 children. There was a lot of that. And some
11 sadness and depression, and a lot of trauma
12 response.

13 Q. Trauma response?

14 A. Uh-huh (affirmative).

15 Q. And did you have an opinion as to what the
16 trauma was?

17 A. It appeared to be that it was a result of
18 being harassed repeatedly.

19 Q. Do you still see Ms. Harness as a patient?

20 A. I do now. We had a break in treatment.

21 Q. Can you explain for the jury what that break
22 in treatment was; why?

23 A. Well, I saw her from May 2018 to
24 approximately September of 2018. At that time, she
25 lost her insurance and she was not able to afford

1 the self-pay rate through the practice I was with,
2 so I was unable to see her at that time.

3 She returned again and saw me for one
4 session in February 2019. And then, I did not see
5 her again.

6 She reached out to me this May, 2021.

7 Q. When you --

8 A. In my practice.

9 Q. I'm sorry to interrupt you.

10 When you last saw her in February of 2019,
11 was that a self-pay visit?

12 A. Yes, it was.

13 Q. So, it was one of those scenarios where even
14 though she didn't have insurance, she just needed to
15 see you?

16 A. Yes.

17 Q. In February 2019, at that time when she lost
18 her insurance, were you still at the Bearden
19 Behavioral Health?

20 A. Yes, I was.

21 Q. So you had partners and other colleagues --

22 A. Right.

23 Q. -- at that place?

24 You couldn't just do what you wanted to do?

25 A. No. I was bound by the expectations of the

1 practice I was working with under the contract I
2 have.

3 Q. And you have since re-established a
4 patient -- or a patient/therapist relationship with
5 Ms. Harness?

6 A. Correct.

7 Q. How is she paying for her visits with you
8 now?

9 A. She is currently not paying. I'm seeing her
10 pro bono. She does have insurance, but it is
11 TennCare. I do not take TennCare. And it is
12 unethical for me to charge her even a reduced rate
13 for TennCare, because she would lose her insurance.

14 Q. Obviously, you wouldn't have to provide your
15 professional services for free.

16 A. No.

17 Q. And that's what is meant by pro bono. So,
18 why are you doing it?

19 A. I'm doing it because she's been my patient,
20 and it's important that she have continuing care.
21 She has formed a therapeutic bond with me. She
22 trusts me and she's coming to me for help. I
23 couldn't say no to that.

24 Q. Can sexual harassment lead to development of
25 mental, emotional and behavioral disorders,

1 diagnosable disorders?

2 A. Absolutely.

3 Q. Have you formed any diagnosis of Ms. Harness?

4 A. Yes, I have several diagnoses. Her primary
5 diagnosis is post-traumatic stress disorder acute.

6 Q. In your opinion, does the diagnosis of
7 post-traumatic stress disorder stem directly from
8 the sexual harassment she experienced at the
9 Anderson County Clerk's Office?

10 A. Yes.

11 Q. Is there any doubt in your mind what
12 underlies her mental and emotional problems is, in
13 fact, that episode of the harassment at the
14 courthouse?

15 A. No.

16 Q. Have you ever had any indication that Gail
17 was putting on or exaggerating her symptoms?

18 A. No.

19 Q. In the diagnosis of, I believe you said
20 anxiety disorder. You may not have said that. But
21 I believe it is the diagnosis of post-traumatic
22 stress disorder. But then also I've seen a
23 diagnosis of unspecified anxiety disorder. Can you
24 help me understand that?

25 A. Yes. Post-traumatic stress disorder is her

1 primary diagnosis. In addition, because she has
2 such episodes of panic, it warranted an additional
3 diagnosis. There wasn't enough information
4 available to say that she had a panic disorder
5 diagnosis, but there is enough to say it is causing
6 a clinical impact and it warranted this other
7 diagnosis. So she has unspecified anxiety disorder
8 as well.

9 Q. Ms. Harness has complained in her testimony
10 today, and I'll just give you an example of, she saw
11 William Jones out when she was --

12 MS. BURCHETTE: Objection, Your Honor.
13 We've spoken about this before.

14 THE COURT: Counsel.

15 MR. COLLINS: I'm not sure I understand
16 the objection. This is an expert witness. I'm
17 giving her a hypothetical. What we talked about
18 earlier is --

19 MS. BURCHETTE: Your Honor, this is
20 still -- this is a treating physician. You didn't
21 qualify her as an expert. And this is directly
22 related to what we discussed before.

23 THE COURT: Well, counsel says it is
24 not, and I think counsel understands that if it does
25 relate to what we discussed earlier, that that would

1 be a major issue for the Court. So, I don't think
2 counsel's going there.

3 MR. COLLINS: I do require some
4 clarification. What the issue was earlier was
5 whether she could sit in as an under --

6 THE COURT: No, that was not the issue,
7 counsel. You may not --

8 MR. COLLINS: Oh, no, I understand
9 exactly. I'm sorry. I fully understand now. Thank
10 you. I'm sorry. No, I'm not going there.
11 Absolutely not. I would not.

12 BY MR. COLLINS:

13 Q. Anyways, so, let's -- we were talking about
14 panicky episodes and that sort of thing.

15 A. Uh-huh (affirmative).

16 Q. Ms. Harness testified earlier about an
17 incident where she was leaving a Mexican restaurant
18 and saw William Jones, and he flipped her off. And
19 then she went into this panic. She describes her
20 heart racing. And she pulled into a Weigel's and
21 said that she felt like she was having a panic
22 attack, and that she fainted. She was with her
23 children. And then when she came to, there was EMS
24 workers around.

25 Is that the type of thing you would expect

1 for someone with post-traumatic stress disorder or
2 is that --

3 A. Yes.

4 Q. Okay.

5 A. I mean, that is definitely something that
6 could happen.

7 Q. Let's talk a little bit more about
8 post-traumatic stress disorder.

9 I'm going to show you and the jury -- well,
10 first of all, how do you diagnosis post-traumatic
11 stress?

12 A. You go through the diagnostic criteria in the
13 diagnostic and statistical manual Fifth Edition of
14 the American Psychiatric Association, and you go
15 point-by-point through the diagnosis, and say, "Do
16 they meet criteria or do they not?"

17 Q. And that's what we call the DSM-5?

18 A. Correct.

19 MR. COLLINS: If we could switch to the
20 Elmo.

21 BY MR. COLLINS:

22 Q. The first criterion: Exposure to actual or
23 threatening death, serious injury or sexual violence
24 in one or more of the following ways.

25 Did you find that that criterion was

1 satisfied in Ms. Harness' case?

2 A. Yes. Harassment is considered a form of
3 sexual violence, particularly, repeated harassment.

4 Q. Repeated harassment?

5 A. Uh-huh (affirmative).

6 Q. And is this Dr. Surdock's own unique opinion
7 or is this something -- a prevailing opinion of a
8 clinical psychologists?

9 A. This is pretty widely accepted among
10 clinicians. There's lot of research articles about
11 this.

12 Q. I do want to ask you, though, kind of move
13 away for a moment from the repeated bit there. But,
14 let's see --

15 MR. COLLINS: Sorry. I'll get moving
16 very quickly.

17 BY MR. COLLINS:

18 Q. I want to show you something. If you could
19 just read -- not out loud. I just would like you to
20 read this text message, because I'm going to have a
21 question about it.

22 A. (Reviews document.)

23 Okay.

24 Q. Nevermind the repeated and prolonged exposure
25 that we talked about, which is why I think sexual

1 harassment can -- or satisfies the criteria under
2 the DSM-5.

3 Would that alone -- could that alone satisfy
4 the DSM-5 criterion A1?

5 A. I would perceive that as a threat of sexual
6 violence.

7 Q. But, again, was that even part of your -- was
8 this text message why you diagnosed her with --

9 A. No, I hadn't seen that. She never talked
10 about that specific incident.

11 Q. And that's because you were more focused on
12 the prolonged and repeated sexual harassment?

13 A. Right.

14 Q. Let's turn to some of the other criteria, the
15 second criteria, intrusive symptoms associated with
16 traumatic events, recurrent and voluntary intrusive
17 distressing memories. Is that something that you
18 found in Ms. Harness' case?

19 A. Yeah, she does report -- this is also
20 commonly known as flashbacks where you experience a
21 cue for a trauma, and you relive it again as if it
22 was happening all over again.

23 Q. And that's something that she's reported?

24 A. She has reported that.

25 Q. What about the dreams?

1 A. She reports recurring nightmares. It's like
2 whatever is happening to her during her day just
3 follows her down into her sleep. She really can't
4 escape from it.

5 Q. I see marked physiological reactions to
6 internal and external cues. The example that we
7 talked about a moment ago where she's leaving the
8 restaurant and sees him, would that fall into that
9 category?

10 A. Yes.

11 Q. That seems like a physiological response,
12 fainting?

13 A. Yes, anxiety and panic attacks are very much
14 physiological.

15 Q. Heartbeat's racing.

16 A. Increased heart rate; increased breathing
17 rate; nausea; sweatiness; faintness; all of these.

18 Q. And is this something that Gail faces every
19 day?

20 A. She reports it every day. Sometimes multiple
21 times per day.

22 Q. Next is: Persistent avoidance of stimuli.

23 Ms. Harness testified that she takes
24 different routes around -- to pick up her kids,
25 because she doesn't want to have any kind of --

1 even the remoteness of possibilities of seeing
2 William Jones. Would that fit -- would that be the
3 kind of avoidance of stimuli?

4 A. Very much.

5 Q. She testified that -- and by the way, I mean,
6 I'm giving you examples now, but these are all
7 things you found that she satisfied in the office on
8 the couch, so to speak?

9 A. Yes.

10 Q. But I'm just trying to get some examples.
11 She testified that when she goes to dinner
12 with her children, she'll go all the way in
13 Summerset, which is far away. Would that be an
14 example of avoiding stimuli?

15 A. Very definitely avoiding.

16 Q. And that's a problem, right?

17 A. Well, yes, that's --

18 Q. It's not normal behavior?

19 A. No. It's causing a lot of distress to have
20 to do that. It's not like, just, "oh, I don't want
21 to go to this Wendy's in town. I'll go to the other
22 Wendy's." That's going significantly out of your
23 way, which is indicating a pretty high degree of
24 impairment.

25 Q. Yes. She also said she won't go to a Walmart

1 anymore, because he encountered her in the shampoo
2 aisle. Would that be another example of avoiding
3 stimuli?

4 A. Yes.

5 Q. Same with Burger King and some other places,
6 but I think we get the point.

7 A. Yes.

8 Q. The next criterion is negative alterations
9 and cognitions and mood associated with traumatic
10 events. It's a mouthful. What does that mean?

11 What are they talking about?

12 A. It's trauma causes a change in how you view
13 the world. There's a lot of self blame from victims
14 of trauma, there's a lot of changes in the way that
15 they view the world around them. They're looking
16 for danger. They lose interest in things that they
17 normally love to do. They withdraw. They feel
18 detached and unconnected with others.

19 Q. And is that -- clearly you found that she
20 meets this criterion, as well?

21 A. Yes.

22 Q. And, in fact -- go ahead.

23 A. I was going to give an example of that.

24 Q. Yeah, please do.

25 A. So, for Ms. Harness, I know that one of the

1 biggest things in her world is her children, and she
2 loves her daughters. She's a very good mom and she
3 has been highly involved in their lives. But it's
4 been hard for her to be able to engage at times that
5 she's felt so numb and withdrawn, that it's hard for
6 her to be able to interact with her children.

7 Q. To be present with her children?

8 A. Right.

9 Q. And you mentioned she blames herself. That's
10 something she said just 30 minutes ago.

11 A. Okay. Not surprising. Victims blame
12 themselves very often.

13 Q. And you mentioned that -- I don't know quite
14 how you put it, but she testified that, let's see,
15 feels like her life will never be the same; that her
16 life was different before; that that was a different
17 life that she had before. Is that something that
18 would fit -- is that something you see with PTSD,
19 Post-Traumatic Stress Disorder --

20 A. Yes.

21 Q. -- and the marked alterations and arousal in
22 reactivity associated with traumatic events?

23 Another mouthful, is that something -- I'm
24 not quite sure I understand what that is:
25 Irritable behavior; outbursts; things like that;

1 sleep disturbance; restlessness. Is that something
2 that you have found in Ms. Harness' case?

3 A. Yes, she definitely has sleep disturbance.
4 She reports lots of difficulties with falling
5 asleep, staying asleep and nightmares to disturb her
6 sleep as well. She has difficulty concentrating.
7 She has engaged in some reckless behavior. Not to
8 the point of endangering herself, but just like
9 thoughtless behavior that tend to go along with
10 trauma.

11 Q. Oh, I'm sorry. Go ahead, please.

12 A. No. Go ahead.

13 Q. She mentioned that she doesn't like to go to
14 the grocery store. No. She gave an example of if
15 she's in a grocery store, and someone like brushes
16 up against her, then she'll have like flashback. It
17 will recall things that Mr. Jones had done to her.
18 Is that something that -- when we're talking about
19 flashbacks, would that be an example?

20 A. Yeah. It's a combination likely of the
21 flashback or trying to avoid a trauma cue, or it
22 could be this exaggerated startle response, which
23 is, again, the hypervigilance and jumpiness, just
24 always being on edge and expecting something to
25 happen, and having a very large reaction when

1 something did.

2 Q. Is that something you've noted clinically
3 with Ms. Harness?

4 A. Yes.

5 Q. Next criteria -- we're almost done with the
6 criterion. Duration of disturbances more than one
7 month. Did she meet that?

8 A. Well over.

9 Q. Clinically significant distress or
10 impairment. Is that -- did you find that is met?

11 A. Yes.

12 Q. Oh, and this is the final one. Disturbance
13 is not attributable to the physiological affects of
14 substance, basically, alcohol or whatever. The
15 symptoms she's having aren't caused by her --

16 A. No.

17 Q. -- drinking or drugs or anything like that?

18 A. No.

19 Q. Okay. Treatment. How is post-traumatic
20 stress disorder treated?

21 A. Primarily treated through exposure therapy.
22 One of the types of exposure therapy -- it's still a
23 pretty high standard. It's prolonged exposure.

24 Other forms of treatment are still forms of
25 exposure, like, eye movement; desensitization and

1 reprocessing; so EMDR, which is exposure; plus
2 other things to help kind of lead process,
3 neurologically. I am not specifically trained in
4 that way, but I am trained in prolonged exposure.

5 Q. And how long -- I mean, first of all, has --
6 is that what you're doing for Ms. Harness?

7 Are you undertaking prolonged exposure?

8 A. We have not gotten to that. We are still
9 working on stabilizing her symptoms.

10 Q. So, do you have an opinion on how long it's
11 going to be before she can even -- strike that.

12 Is it your testimony that you haven't even
13 really started treating her for the post-traumatic
14 street disorder?

15 A. Correct.

16 Q. And do you have an opinion on when she will
17 be stable enough to begin that?

18 A. She has to not be continually traumatized
19 before we can really start working it.

20 Q. Okay. And so that can take awhile?

21 A. Yeah.

22 Q. And just so the jury understands, I think
23 what you're saying is the prolonged exposure, you're
24 going to have to really -- that's when you roll up
25 your sleeves and you get in with the gory details.

1 And that's just you haven't -- you're not there yet?

2 A. Right. In a nutshell, prolonged exposure
3 means that I have to go through her trauma with her
4 over, and over, and over again. She's not out of it
5 enough that I can do that with her, because then I'm
6 just still continuing to re-traumatize her. She
7 needs to be stable before we can do that.

8 Q. So, would you characterize prolonged exposure
9 as an intensive therapy?

10 A. Yes.

11 Q. And how long does that normally take?

12 A. It is between 9 and 12 sessions. Sessions
13 run around 90 minutes each. We try to do them in a
14 shorter period of time, so several times a week.

15 Q. You're saying two to three times a week?

16 A. Yeah.

17 Q. Does post-traumatic stress disorder have a
18 cure?

19 A. No, no mental health issue has a cure. It's
20 all treatment and management.

21 MR. COLLINS: Pass the witness.

22 THE COURT: Cross-examination.

23 CROSS-EXAMINATION

24 QUESTIONS BY MS. BURCHETTE:

25 Q. Good afternoon, Dr. Surdock. So, you

1 testified earlier that you treated Ms. Harness from
2 May of 2018 until about September of 2018; is that
3 correct?

4 A. Yes.

5 Q. And were you aware at that time that Anderson
6 County was paying for her therapy?

7 A. No.

8 MR. COLLINS: Objection, Your Honor.
9 That's -- that's a misstatement. And it's
10 argumentative for one, because it's not true. It's
11 insurance. And it's irrelevant.

12 THE COURT: Why is it irrelevant?

13 MR. COLLINS: Oh, I'm sorry. Who was
14 paying for her therapy?

15 THE COURT: Okay, Ms. Burchette.

16 MS. BURCHETTE: Anderson County
17 representatives stated to Ms. Harness that she
18 would --

19 THE COURT: No. The question is why is
20 it relevant?

21 MS. BURCHETTE: It's relevant because it
22 shows Anderson County did something to assist the
23 victims.

24 MR. COLLINS: Your Honor --

25 THE COURT: So, it goes to whether or

1 not the county was deliberate --

2 MS. BURCHETTE: Yes.

3 THE COURT: -- deliberately indifferent?

4 MS. BURCHETTE: Yes, Your Honor.

5 THE COURT: Overruled.

6 THE WITNESS: Can you repeat?

7 BY MS. BURCHETTE:

8 Q. Yes.

9 Did you know at the time that Anderson
10 County was paying for Ms. Harness' therapy?

11 A. No.

12 Q. And you only saw her, then, from May until
13 September, correct?

14 A. Correct.

15 Q. And discussing that, then, you did diagnose
16 with Ms. Harness' with post-traumatic stress
17 disorder?

18 A. Correct.

19 Q. And then there was a break in treatment?

20 A. Correct.

21 Q. And you're seeing her now pro bono?

22 A. Yes.

23 Q. How often are you seeing her now?

24 A. I've seen her twice since May.

25 Q. Okay. So, once every two weeks?

1 A. Roughly.

2 Q. Kind of like your normal schedule, back when
3 you were treating her at Bearden Behavioral?

4 A. Yes.

5 Q. And how long are your sessions, typically?

6 A. 45 to 60 minutes.

7 Q. And so, you're seeing this person for 45 to
8 60 minutes, approximately once every two weeks,
9 unless there's a crisis; is that fair?

10 A. For standard treatment, yes.

11 Q. And that's what it was, at least back in
12 2018, that was -- it was standard treatment for
13 Ms. Harness?

14 A. Correct. We hadn't proceeded to doing any
15 prolonged exposure, so we didn't need more frequent
16 therapy sessions.

17 Q. So you're kind of at square one, kind of
18 where you are now?

19 A. Right.

20 Q. You testified that there's no cure for any
21 type of mental health condition.

22 A. No.

23 Q. Anxiety, depression. And there's no cure.
24 You just have to learn how to manage it, correct?

25 A. Right. It's symptom management and

1 treatment. It's just like any chronic illness.

2 Q. And so, there's never going to be a magical
3 cure?

4 A. No. I mean, I don't think pharmacology has
5 come that far where there's a magic pill or
6 anything. It just makes your symptoms go away.
7 It's work.

8 Q. And you have to put in the work?

9 A. Yes.

10 Q. Be willing to put in the work?

11 A. Am I?

12 Q. No. You have to be willing to put in the
13 work?

14 A. Yes. The client has to be willing to put in
15 the work.

16 Q. Yes.

17 A. And the therapist, too.

18 Q. Yes. Give me one second.

19 And you stated that you started seeing her
20 again in May of 2020?

21 A. 2021.

22 Q. 2021, yes.

23 Did you bring those records?

24 A. No. We've only had two sessions. So, one of
25 them I haven't even documented yet.

1 Q. Okay.

2 A. I can provide them later if we need them.

3 Q. Well --

4 A. It's just intake notes very similar to the
5 one that's already been done, because it was just
6 re-establishing symptoms.

7 Q. But as I stand here today, all I have been
8 provided is the Bearden Behavioral ones from 2018?

9 A. I did not receive a request for records.

10 MS. BURCHETTE: No other questions, Your
11 Honor.

12 THE COURT: Redirect.

13
14 REDIRECT EXAMINATION

15 QUESTIONS BY MR. COLLINS:

16 Q. Mrs. -- excuse me. Dr. Surdock, you were
17 asked about how you were paid previously.

18 Is it your understanding you were actually
19 paid through insurance, like, her group health
20 plan?

21 A. Yes. According to the records, there was an
22 insurance number on file.

23 Q. Are you aware that Anderson County offered to
24 pay and then never did?

25 A. No.

1 Q. Okay. Thank you.

2 THE COURT: Thank you, ma'am, you may
3 step down.

4 THE WITNESS: Thank you.

5 THE COURT: Appreciate you coming.

6 (Witness excused.)

7 MR. COLLINS: Your Honor, at this time,
8 we would move to stipulate exhibit U.S. Life Tables
9 -- I'll have the exhibit up here. This is Exhibit
10 29. We would move Exhibit 29 into evidence, the
11 U.S. Life Tables.

12 THE COURT: Any objection?

13 MS. BURCHETTE: No.

14 THE COURT: It's received.

15 MR. COLLINS: Thank you, Your Honor.

16 (WHEREUPON, a document was marked as
17 Exhibit Number 29.)

18 THE COURT: Call your next witness.

19 MR. STANLEY: Your Honor, we have no
20 more witnesses for today and I don't think we would
21 have any witnesses for tomorrow, either. We'll just
22 rest. If the Court is lenient to breaking, we would
23 like to look at our files. But, otherwise, we
24 would -- if the Court wants to break for the day, I
25 know for certain we would be rested in the morning.

1 THE COURT: Ms. Burchette, you have a
2 witness you can put on in 20 minutes?

3 MS. BURCHETTE: Your Honor, defense
4 would want to do things outside of the presence of
5 the jury first to take up some issues.

6 THE COURT: So, you don't have a witness
7 either?

8 MS. BURCHETTE: Yes, we do.

9 THE COURT: Will the witness take 20
10 minutes?

11 MS. BURCHETTE: It might take more. And
12 I'd like to reiterate, we do want to take up an
13 issue outside the presence of the jury.

14 THE COURT: You have a deposition you
15 could read that might take 20 minutes?

16 MR. KNIGHT: We only have one witness.

17 THE COURT: You only have one witness?

18 MS. BURCHETTE: Yes.

19 THE COURT: Okay.

20 Well, ladies and gentlemen, we kept half
21 of our commitment. We said we'd finish by lunch.
22 We did not. But we are going to finish today, at
23 least. And it looks like we'll probably finish
24 tomorrow if what we're hearing is correct, that
25 defense only has one witness and the plaintiffs will

1 not have any other witnesses. So it looks like we
2 may be able to wrap things up and get the case to
3 you tomorrow.

4 That means it's especially important
5 that you be safe this evening so you can come back
6 tomorrow and take the case and finish the case up.

7 We are going to end for the day. And
8 there have been a lot of automobile accidents out
9 there for some reason. Some people think it's a
10 result of the virus. I don't know whether that's
11 the case or not, but I would ask you to be extra
12 careful as you drive on our highways on your way
13 home and in coming back in the morning.

14 We will resume our morning tomorrow at
15 9:00. While you're away from court, do not discuss
16 the case with anyone. Do not allow anyone to
17 discuss the case with you.

18 I understand that there is a report in
19 the courtroom, so there may be some media coverage.
20 And make sure you don't read anything at all about
21 this case in the media. Don't watch anything on TV
22 or listen to anything on the radio. If anyone tries
23 to discuss the case with you, let Mrs. Lewis know.

24 So, the jury is now excused and we'll
25 see you tomorrow morning at 9:00.

1 (WHEREUPON, the jury was excused for
2 the day, after which the following proceedings were
3 had in open court, as follows:)

4 THE COURT: Okay. The jury has departed
5 the courtroom. Counsel may be seated.

6 I think that the defendant would like a
7 motion for a judgment as a matter of law. The
8 plaintiffs want to make sure they've tied up all the
9 loose ends before they rest their case. They've not
10 rested at this point.

11 While we have a little bit of time, I
12 think there are some questions that I might want to
13 address to the parties.

14 One of the issues in the case is whether
15 Mr. Jones was a policymaker. I've heard a little
16 bit of evidence on that, but is that a matter for
17 the jury to determine or is that a matter for the
18 Court to determine?

19 MR. COLLINS: Your Honor, I believe the
20 decision of law states that it is for the Court to
21 determine. The jury would then get a --

22 THE COURT: If it's for the Court to
23 determine, then what does the Court make that
24 decision on? Does the Court make that decision
25 on -- well, let me ask another question.

1 In making that decision, does the Court
2 rely on state law or does the Court rely upon the
3 testimony of witnesses?

4 MR. COLLINS: The Court would rely upon
5 the testimony of the witnesses and make a
6 determination. And I'm not clear on whether we
7 would file -- that's one thing we would want to look
8 at tonight. I know I'll be filing a motion. We've
9 asked for certain excerpts to be printed,
10 transcripts, for example.

11 Of course, we think it's clear that he's
12 the final policymaker.

13 THE COURT: What case law says that the
14 Court must rely upon a witness' testimony?

15 MR. COLLINS: If you'll give me a
16 moment, it's in the Seventh Circuit.

17 MR. STANLEY: I think it's in there.

18 MR. COLLINS: In the summary judgment
19 one.

20 This is a Seventh Circuit -- Seventh
21 Circuit case. This is -- again, we're pulling from
22 the annotations from the Seventh Circuit. And we've
23 got some Sixth Circuit law. Valentino vs. Village
24 of South Chicago Heights 575 F.3d 664 (7th Cir.
25 2009). The determination of whether a particular

1 official is a policymaker for purposes of of Monell
2 liability, is an issue for the Court and not the
3 jury. It's a question of law.

4 Under this Seventh Circuit jury
5 instructions, if I can just locate them, the
6 Court -- so the Court would then make a
7 determination, for example, that William Jones is
8 not a policymaker. The jury would still then get
9 charged.

10 THE COURT: Well, we're not there yet.

11 MR. COLLINS: I understand.

12 THE COURT: And the Court making that
13 determination, does the Court rely upon witness
14 testimony or does the Court rely upon state law?

15 MR. COLLINS: The Court would rely upon
16 the witness testimony and the law.

17 THE COURT: If the court relies upon
18 state law, why does the Court need witness
19 testimony, then?

20 Well, what does it matter what the
21 witnesses say, as long as the state law is clear?

22 MR. COLLINS: I'm not sure I have a very
23 good answer for that. It's just my understanding
24 that we look at the facts of whether or not he is a
25 final policymaker. Similar to what the Court did at

1 the summary judgment stage in the order -- the
2 summary judgment order, looking at whether or not
3 he's a final policymaker. So I don't know if I've
4 got a great response to that.

5 And, again, this is something that we
6 had hoped to have a little bit of time to prepare
7 for, because I'm not quite sure what the proper
8 procedure is, like, do I need to file a motion --

9 THE COURT: Well, if it's strictly a
10 matter of law and the Court bases that decision upon
11 state law, the only thing that the Court has to do
12 is just cite to the Court, the appropriate law. And
13 the Court could read it and interpret it and the
14 Court will make a decision.

15 If it's a matter of relying on witnesses
16 then, obviously, you have to point the Court to the
17 particular witnesses and exactly what the witnesses
18 said.

19 MR. COLLINS: Right.

20 THE COURT: So, in terms of the
21 mechanics, there's just a big difference.

22 If it's a matter of state law, it's very
23 simple, if there's a state statute or a county
24 ordinance that delegates to a person, a certain
25 authority.

1 MR. COLLINS: Right. And I think, here,
2 if you look at the Sixth Circuit decisional law
3 following a policymaker, you're looking for things
4 like the level of delegation, for example. And
5 that's where you would look to the witness'
6 testimony to see whether you've got that level of
7 delegation.

8 I mean, I think it's a matter -- we say,
9 "State law." I don't think that is quite fair. I
10 think it's a matter of federal common law too. And
11 there's a wealth of decisional law about what
12 constitutes a final policymaker for purposes of
13 Section 1983 Monell liability.

14 I mean, at the end of the day, it's
15 final policymaking authority over the thing at
16 issue. Here, it's the terms and conditions of
17 employment of these county employees. The county is
18 delegating whatever authority it had over its own
19 employees to this claim, who -- we know who from the
20 testimony, had complete and total authority over the
21 terms and conditions of the county.

22 THE COURT: Is the county clerk a
23 creation of the county or the creation of the state?

24 MR. COLLINS: Creation of the state,
25 pursuant to the constitution. But that's -- I don't

1 think it touched on it. I mean, at the end of
2 the --

3 THE COURT: And establishing the clerk
4 of court position to the State's position, does it
5 also endow the clerk of court the authority to hire
6 people?

7 MR. COLLINS: I don't think so. I mean,
8 at the end of the day, the budget -- the money
9 that's used to pay for employees, what empowers the
10 clerk to employ anyone, is the county. And if you
11 look at --

12 THE COURT: We had something of a
13 dispute here recently. The county election
14 commission submitted their budget, and then included
15 two new employees in the budget. The county
16 commission decided not to fund the position because
17 they did not think the new position was necessary.

18 The election board or election
19 commissioners complained, "you have no authority to
20 reduce our fund." Your only obligation is to just
21 to fund what we say we need. We say we need two
22 people and you have an obligation, under the
23 constitution of the state, to fund the positions.

24 Does the same thing apply then, that
25 same thinking apply to a county clerk's office in

1 the county?

2 MR. COLLINS: I'm not quite sure I'm
3 tracking fully, but I don't think so. I think you
4 have to look at, what's the aspect of what's
5 going -- what's the -- what are we talking about
6 here? What is the case turning on? Here, it's the
7 creation of a hostile work environment. So what
8 we're talking about is the terms and conditions of
9 employment. And we have heard witness after witness
10 after witness tell us that William Jones had final
11 authority, carte blanche authority. We've heard it
12 even out of his own mouth through other witnesses.
13 And that's what matters, because the county did not
14 control -- these were county employees.
15 Ms. Harnness was a county employee, county payroll,
16 county benefits, county 401(k).

17 But William -- any authority over the
18 terms and conditions of her employment was solely
19 vested and delegated to William Jones. And I know
20 where their --

21 THE COURT: Was that as a result of
22 county law or was that result of the state law?

23 MR. COLLINS: It was a resolve of how it
24 was done in this particular county. I mean, they
25 could have said --

1 THE COURT: It's not done like that in
2 every county?

3 MR. COLLINS: I don't think so. They
4 could have said, for example, you're a fee office.
5 You generate your own fees. You're responsible for
6 your own payroll, your own benefits. You're on your
7 own. See ya. But that's not what happened.

8 And I sense that you're looking at the
9 case law where the -- what matters -- what drives it
10 is, what are we actually talking about at the end of
11 the day? We're talking about a hostile work
12 environment, the terms and conditions of employment
13 with these -- so, who is the final policymaker for
14 purposes of the terms and conditions of employment
15 of these county employees in the clerk's office?

16 So, I mean, I think that -- I hope that
17 answers your question.

18 THE COURT: Mr. Knight, would you like
19 to add anything to the discussion?

20 MR. KNIGHT: No, Your Honor. I think
21 that -- it is the same in every county that I'm
22 aware of. And I represent a lot of counties. But
23 in terms of Mr. Jones, the constitution requires
24 that he be elected. And I understand about the
25 terms and conditions of employment and all that kind

1 of stuff. But we have to fund that office.
2 Anderson County has to fund that office. And you
3 have an elected official whose only two ways to get
4 rid of him, by the judge, or an ouster suit, which
5 we may or may not have time. That's a question for
6 the jury to implement as to Jones, as Mr. Bearden
7 testified to.

8 Yeah, Judge Edgar found in 2006 that
9 Meigs County Clerk was not a county employee. In
10 McGill, an official of the state, McGill vs.
11 Smith -- and the reason I'm being prompted is
12 because this is a case that Ms. Burchette fought on.

13 So, that's my response, Your Honor.

14 THE COURT: So, we got in this
15 conversation when the Court asked whether that
16 determination is for the judge or whether it's for
17 the jury. The plaintiff says it is for the Court to
18 determine.

19 I then asked, did we look to state law
20 or did we look to the testimony of witnesses.

21 Do you have any thought on that?

22 MR. KNIGHT: I think the Court makes the
23 determination. I would agree with Mr. Collins on
24 that.

25 I, in terms of -- I think that

1 it's -- I, myself, agree with Mr. Collins. Again, I
2 think -- and that's kind of a hybrid, by looking at
3 the witnesses and testimony and the State
4 constitution -- state law.

5 So -- and the law, according to this
6 case, says what the standard is so ...

7 THE COURT: Well, you may want to devote
8 a little bit of time for this issue, tonight, to see
9 whether the Court looks at state law. I think there
10 are a lot of advantages, a lot of practical
11 advantages, if that would be the rule, there would
12 be a lot of consistencies, because the state law is
13 going to be stable and consistent.

14 If you rely upon witnesses, then that
15 means the quality of the witnesses will determine
16 whether a court determines that, an official is a
17 policymaker or not. So, you have good witnesses if
18 the person is a policymaker. And you have bad
19 witnesses if the person is not a policymaker. And
20 it may not have anything at all to do with the
21 person's actual authority or actual
22 responsibilities. Whereas, if you look at state
23 law, you would avoid that.

24 The issue, Ms. Burchette, through
25 Mr. Knight, just brought up, is a different

1 question. And that is to whether the clerk of court
2 office is a county office or whether it is a state
3 office. But that's not been brought to the Court's
4 attention. So the Court does not have to deal with
5 it.

6 So you may just want to focus on this
7 question of, is it a question that the Court
8 determines from the witnesses, or does the Court
9 determine it based on state law. If the Court bases
10 it on state law, then I think somebody needs to
11 apply that state law so the Court can make a
12 determination.

13 MR. COLLINS: Yes, Your Honor. We
14 appreciate the opportunity to conduct some research
15 and get back with you tomorrow.

16 MR. KNIGHT: As we would.

17 THE COURT: Okay. Thank you.

18 Anything else?

19 MS. BAILEY: No, Your Honor.

20 MR. COLLINS: I don't think so, on
21 behalf of the plaintiff.

22 THE COURT: Okay. We will conclude
23 then. We will have a draft of the jury charge
24 available for you probably by mid-morning, so you
25 have a chance to look at it. I think we're going

1 quicker than we thought. Tomorrow is just
2 Wednesday, and we were planning on getting done by
3 Friday, and at the earliest, on Thursday. It looks
4 like we are not too far behind. Okay .

5 Ms. Lewis.

6 THE CLERK: All rise. This honorable
7 court is adjourned.

8 (WHEREUPON, the foregoing proceedings
9 were adjourned for the day at 4:59 p.m., to be
10 resumed June 23, 2021, at 9:00 a.m.)
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REPORTER'S CERTIFICATE

STATE OF TENNESSEE

COUNTY OF ANDERSON

I, April Lassiter-Benson, Licensed Court Reporter, with offices in Memphis, Tennessee, hereby certify that I reported the foregoing Jury Trial of **GAIL HARNESS VS. ANDERSON COUNTY, TENNESSEE** by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me. I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

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